REPORT RESUMES

ED 018 479 UD 004 734

DESCRIPTION OF PROGRAM ORGANIZATION AND ADMINISTRATION FOR FISCAL YEAR 1967--P.L. 89-10, TITLE I.

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PUB DATE 1 OCT 66
EDRS PRICE MF-$0.75 HC-$6.08 150P.

DESCRIPTORS- *PROGRAM BUDGETING, *EDUCATIONAL FINANCE, *FEDERAL PROGRAMS, *COMPENSATORY EDUCATION PROGRAMS, STATE DEPARTMENTS OF EDUCATION, STATE AGENCIES, COOPERATIVE PLANNING, ADMINISTRATIVE ORGANIZATION, RESOURCE ALLOCATIONS, CONSULTANTS, QUESTIONNAIRES, PROGRAM EVALUATION, DISADVANTAGED YOUTH, ANNUAL REPORTS, *PROGRAM ADMINISTRATION, ESEA TITLE 1, NEW MEXICO

THE BULK OF THIS EVALUATION REPORT OF NEW MEXICO'S TITLE I PROJECTS IS A SERIES OF APPENDIXES. HOWEVER ONE SECTION OF TEXT OUTLINES THE ORGANIZATION OF THE PROJECTS (BUDGET, PERSONNEL, ETC.) AND ANOTHER THEIR ADMINISTRATION AT THE STATE LEVEL (CRITERIA FOR PROJECT APPROVAL, TECHNICAL ASSISTANCE AND CONSULTATIVE SERVICES, FISCAL MANAGEMENT, ETC.). SOME OF THE APPENDIXES CONTAIN (1) A PROJECT CHECKLIST WORKSHEET, (2) EVALUATION QUESTIONNAIRES, (3) INFORMATION REGARDING THE COOPERATION OF TITLE I PROJECTS WITH COMMUNITY ACTION PROGRAMS, AND (4) STATE STATUTES AND REGULATIONS. (LB)

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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DESCRIPTION OF PROGRAM
ORGANIZATION AND ADMINISTRATION
FOR FISCAL YEAR 1967--P. L. 89-10, TITLE I

Submitted by:

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State Department of Education
Santa Fe, New Mexico

UD 004734

October 1, 1966

Compiled by:
Mildred Fitzpatrick, Chairman
Title I, ESEA Services Area

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DESCRIPTION OF STATE PROGRAM ORGANIZATION AND ADMINISTRATION FOR FISCAL YEAR 1967 - PUBLIC LAW 89-10, TITLE I

A. Organization

I. State Organization and Administration

a. Units within the State agency responsible for administration:

1. The unit within the State Department of Education which has been assigned the primary responsibility for administration of the Title I program is the Title I, ESEA Services Area. This area is one of five in the New Mexico Department of Education. This area has the responsibility of reviewing, approving, and implementing the program as well as working with individuals and local education agencies in formulating and operating programs under Title I.
2. The Title I, ESEA Services Area, is the unit within the State Department of Education which has the responsibility for the administration of grants for handicapped children as authorized by P. L. 89-313.
3. The Title I, ESEA Services Area, will be the unit within the State Department of Education responsible for administering projects providing benefits to neglected or delinquent children.

4. The Title I, ESEA Services Area, will be the unit within the State Department of Education responsible for administering projects for special programs for children of migratory agricultural workers as proposed by H. R. 13160.

b. A complete organizational chart of the State Department of Education showing a relationship between this area and the rest of the agency is included in appendix A. The various supportive responsibilities of other areas of the State Department of Education are explained in appendix A. The certificate for authority under New Mexico law to perform the duties and functions of a state educational agency under Title II under Public Law 81-874 has been granted by the office of attorney general and has been made a part of appendix A. (The organizational chart, and certificate of authority.)

II. Cooperative Relationships

a. Cooperation with other State Agencies

Close cooperation exists between the Title I, Elementary Secondary Education Act Services Area and the Chief of Public School Finance. Appropriate accounting procedures and orderly transfer of funds have been worked out by the two agencies for the public schools. Also, accounting procedures and transfer of funds have been accomplished for the State supported schools for the handicapped. This involved the Board of Educational Finance and the Department of Finance. For details see appendix B. (Recommendations for the Fiscal Administration of Title I, Elementary Secondary Education Act Funds for the 1966-67 year.)

Representatives from appropriate units within the State Health Department and the Title I Specialist in Program Operation have arranged for close communication at the State level. Technical assistance in developing cooperative dental projects and in formulating qualifications and duties for nurses' aides has been requested. The Departments of Health, Education, and Welfare are in the process of arranging conferences to be held quarterly to consider the full utilization of the existing resources for education, health and social services of children and their parents. Outstanding problems, gaps, and unmet needs will be identified. See appendix C. (Summary of organizational meetings.)

Detailed cooperative relationships between the Title I, Elementary Secondary Education Act Services Area and other areas of the State Department of Education will be documented in other sections of this report.

b. Cooperation with State Division of Economic Opportunity

Harmonious liaison between Title I, Elementary Secondary Education Act Services Area and the Director of the State Division of Economic Opportunity is in force. The programs facilitated by provisions of the Economic Opportunity Act and Title I of Public Law 89-10 are assured from two levels of operation. Dr. Mildred Fitzpatrick, Chairman, Title I, Elementary Secondary Education Act Services Area, and Mr. Frank McGuire, Director of the State Division of Economic Opportunity, have arranged for close communication at the State level. Sponsors of programs under Title I have been informed of the necessity of coordinating efforts with local agencies operating under the auspices of the Office of Economic Opportunity, and Title I proposals submitted must contain assurances that these provisions for coordination have been fulfilled. A policy has been set whereby all programs submitted for approval should have documentation included from all cooperating agencies indicating their knowledge of and/or their participation in the program. The Specialist in Program Operation of Title I, Elementary Secondary Education Act Services Area, prepares a photostatic copy of the document assuring that local community action agencies have reviewed the Title I project proposals submitted by local education agencies. This information is transmitted to the State Division of Economic Opportunity in the form of a compiled report when all Local Education Agency projects have been approved. In the event of major criticism the Specialist in Program Operation and the State Division of Economic Opportunity concur and arrive at a course of action to be taken in resolving the questions raised by either the CAP Agency or the Local Education Agency. Every effort is made to settle differences quickly and amicably at the local level.

The Title I office follows this same procedure in resolving problems which may evolve from the Office of Economic Opportunity programs being initiated in the realm of the Local Education Agency domain. The State Division of Economic Opportunity compiles reports for submission to the State Title I office upon request.

Stewart A. Hatch, State Technical Assistance Officer, State Division of Economic Opportunity, has provided a "Digest of Community Action Agencies in New Mexico" which includes a list of local, county, regional and State Community Action Program Officials. An abstract of approved Title I programs is furnished to the above mentioned officer of the Office of Economic Opportunity as well as other reports requested.

Specific information indicating the manner in which Leonard De Layo, Chief State School Officer, and Frank McGuire, Director of New Mexico Division of Economic Opportunity, have followed at the State Level to coordinate Title I programs and Office of Economic Opportunity programs with the Community Action Program is explained in appendix D. (Joint letters from Leonard De Layo and Frank McGuire.) Appendix E. (Cooperation and Coordination of Elementary and Secondary Education Act Programs and Economic Opportunity Act Programs.)

III. BUDGET

The 1966-67 budget has been prepared on the same basis as 1965-66. If a less amount is received, the budget will be reduced proportionately.

Salaries	$71,440.00
Group Insurance	260.00
Retirement	4,261.00
FICA	2,423.00
In-State Mileage and Fares	800.00

In-State Meals and Lodging	$ 4,000.00
Out-State Mileage and Fares	1,150.00
Out-State Meals and Lodging	600.00
Gas and Oil--Transportation	1,300.00
Maintenance and Repair--Transportation	150.00
Insurance--Transportation	180.00
Furniture, Fixture, and Equipment	350.00
Office Supplies	2,500.00
Education and Recreation Supplies	75.00
Advertising	50.00
Service of Other Agency	455.00
Professional Services	1,500.00
Communications	2,500.00
Rent of Building	3,000.00
Subscription and Dues	50.00
TOTAL	$97,044.00

IV. PERSONNEL

a.	Functions	Title	Per cent of Time
1.	Overall Program Administration	Dr. Mildred Fitzpatrick Chairman, Title I, ESEA Services Area	100
2.	Approval of Projects	Dr. Mildred Fitzpatrick Chairman, Title I, ESEA Services Area	100
		Weldon Perrin, Director of Finance	100
		Bill Caperton, Specialist, Program Operations	100
3.	Measurement and Evaluation	Jesse Manzanares, Specialist, Evaluation	100

	Functions	Title	Per cent of Time
4.	Liaison with State Technical Assistance, Office of Economic Opportunity	Bill Caperton, Specialist, Program Operations	100
5.	Program and Fiscal reports from State Educational Agencies to Commissioner of Education	Dr. Mildred Fitzpatrick Chairman, Title I, ESEA Services Area	100
6.	Acquisition and Dissemination of Research	Dr. Mildred Fitzpatrick Title I, ESEA Services Area	100
		Weldon Perrin, Director of Finance	100
		Bill Caperton, Specialist, Program Operations	100
		Jesse Manzanares, Specialist, Evaluation	100
7.	a. Receipts and Custody of Federal Funds	Joseph B. Grant, New Mexico State Treasurer No salaries from Title I	5
	b. Financial and Record	Weldon Perrin, Director of Finance	100
8.	Authorization of payments to local educational agencies	Dr. Mildred Fitzpatrick Chairman, Title I, ESEA Services Area	100
9.	Other	See Appendix F, job specifications. (New Mexico Personnel Board Classification Plan)	100

B. Administration

I. Criteria for Approval of Projects

a. A routing sheet has been developed to determine status of the project at any particular time and to verify approval. Individual check sheets are used as back-up verification before recording on routing sheet. All check lists and form letters are attached. See appendix G. (Check lists.)

b. State policies.

1. Selection of project areas

   The applying local education agencies include in Part I of the Application, a list of school attendance areas with high concentration (at least as high as the district-wide average on a percentage or numerical basis) of children from low-income families ranked from high to low in order of concentration. The list includes every attendance area in the district with those not qualifying specified as such. The ranking is based upon criteria chosen by the local educational agency from those listed on page 23, "Guidelines: Special Programs for Educationally Deprived Children," USOE 35079. Specialists in Program Operation, Title I, ESEA Services Area, verifies this information in light of its documentation and interpretation of documented information.

2. Identification of special educational needs in the project area

   The local education agency must identify the characteristics which are most common among the educationally deprived children in the eligible attendance area and are sufficiently severe to indicate a need or service. Criteria used for determining needs or services are in agreement with those listed on page 6, "Instructions for 1967 Application", Forms OE-37003, or as specified on page 22, "Guidelines: Special Program for Educationally Deprived Children", OE-35079. These statements of special needs and identification of characteristics of educationally deprived children are checked by the state agency against previous evaluations of the schools in question and the objectives for alleviating the needs.

3. Size, Scope, and Quality

Proposals are approved on the basis of applicability to the education of the disadvantaged and handicapped children in the local education agency in ratio to how many disadvantaged and handicapped children might have existed in the local education agency on the basis of the 1960 census data and AFDC figures for 1962; that is, not more than a fifteen percent increase. Programs proposed must be of sufficient size and scope in relation to the number of pupils served so that a significant impact will result in meeting the educational needs of the pupils. The local educational agency's total program must concentrate sufficient resources in relation to the number of educationally deprived children in the LEA to insure that the special educational needs of these children will be significantly reduced.

A total amount of money allocated for a local education agency is divided by the number of children who have been designated to participate in the project area and if the resulting figure is not below $100 the program proposal is accepted. If it is possible within the amount of the applicant's maximum basic grant, the proposed program must include a variety of coordinated approaches toward meeting the needs of educationally deprived children. The program must be available to children at the various grade levels; unless, there are specified reasons and documented information that it should be applied only on certain grade levels. For a project to have quality it must include resources and methods that have been carefully selected to meet the special needs of educationally deprived children and the proposed program must show evidence for reasonable expectation that it will be successful in meeting these needs.

4. Provisions for children enrolled in private schools. Project proposals from local educational agencies are also required to explain the extent of planned involvement of private school children, site objectives, and means for resolving educational problems of the private school as well as the public school. Acceptable procedures have been developed with regard to Title I project proposals and the involvement of the personnel of private schools.

These are as follows:

1. That the local representatives of the private schools, who in most cases will be principals, will attend project planning meetings with the local education agencies and read the finished proposals with any annotations.
2. If it is a Catholic Parochial School, the archdiocesan or diocesan superintendent will send a letter to accompany the project for submitting to the state education agency, Title I, ESEA Services.
3. Private schools are required to make the same surveys locating the number of economically deprived children as well as educationally deprived children in their local units.

5. Evaluation procedures

The nature of procedures for evaluation depends on the nature of the program being evaluated. School districts which sponsor programs will be held accountable for self-assessment of accomplishment in those programs in light of the objectives stated in the proposal. This assessment, whenever practical, will use standardized tests for measuring the achievement of individual students. The Specialist in Evaluation, Title I, ESEA Services Area, receives reports on all self-evaluated efforts and makes the assessment of the school program. The narrative in each project proposal must be accompanied by the completed questionnaire, "Plan for Evaluating Title I, ESEA Projects

Fiscal Year 1967." See appendix H. (Evaluation Questionnaire.)

6. Coordination with local community action programs approved under the Economic Opportunity Act. Harmonious liaison between the Title I, ESEA Services Area and the Director of the Office of Economic Opportunity now exists. In addition to this arrangement as described under coordination of other state agencies a delegate from the Title I, ESEA Services Area advises with an appointed official from the Office of Economic Opportunity on any problems or plans which involve both offices. The State Technical Assistance Coordinator of the Office of Economic Opportunity examines the Title I project abstracts to determine that community action agencies are working with local educational agencies. Similarly the Specialist in Program Operation, Title I, ESEA Services Area examines the list of organized community action groups to insure that local education agencies are working with CAA's.

7. Acquiring and disseminating information

   Procedures for acquiring and disseminating information pertaining to the educationally deprived students include:

   a. Treatment of this subject as a significant topic of concern at local and state workshops;

   b. A periodic reporting to all schools involved to show good efforts to those deserving recognition;

   c. Familiarizing all members of the Instructional Service Area, Administrative Service Area, Vocational Education

Services Area, and Research Area of the State Education Agency with program progress so they can share valuable experiences with schools which they visit in their supervisory capacities;

d. Publishing abstracts of significant finding in the form of a newsletter or in a bulletin having State-wide coverage;

e. Establishing a mailing list of local education association presidents, deans of education of the higher institutions, officials of Parent Teacher Associations, the New Mexico Taxpayers' Association, and the officials of the Retarded Children Association;

f. Distributing bulletins from the U.S. Office of Education to Title I Coordinators of local educational agencies.

8. Construction of facilities

Before approval is given for construction of facilities there is a meeting with the superintendent of the local education agency, the Chairman of Administrative Services Area, the Specialist in School Plant Planning, and the Title I approval committee to ascertain needs.

If the school district is bonded to practical capacity; if the educational program in question cannot be implemented to improve educational needs of the deprived child; and, if the expansion of these curriculum offerings is indicated to fulfill priority needs of deprived children, without jeopardizing some equally pressing needs, approval is given to the construction of facilities. The following guidelines have been developed and must be followed in order to not conflict with State rules and regulations.

PROCEDURE TO FOLLOW IN CONSTRUCTION OF FACILITIES UNDER TITLE I - 89-10

a. Obtain approval of project.

b. A registered resident architect must be hired if the project is to cost more than $5,000.00.

c. Preliminary plans and final plans must be approved by the State Department's School Plant Planning Specialist.

d. The New Mexico School Building Guide shall be followed when possible. The 1964 Uniform Building Code must be followed.

e. Wages for all laborers on construction projects must be not less than that paid in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

f. There must be compliance with Title VI of the Civil Rights Act of 1965.

g. New Mexico law pertaining to bids and advertising must be followed.

h. Complete Request for Determination, USOE form DB-11, in triplicate.

i. Two copies of approved final construction plans must be submitted before construction funds approved in a project will be distributed to the district.

9. Purchase of Equipment and Instructional Supplies

a. Equipment

The Specialist in Program Operation reviews the list of equipment purchased with the 1966 Title I funds, the amount budgeted from State operational funds, and proposed 1967 equipment list to determine overlapping, gaps, or duplication. If none of these occur and equipment listed is necessary for implementation of the project, it is given approval.

A detailed equipment list is attached to the project proposal and a copy of the bid proposal and/or purchase order becomes a part of the project records for auditing and accounting purposes. Purchase of equipment must conform to state purchasing rules and regulations.

b. Instructional Supplies

Instructional supplies are given the same scrutiny and respondents are asked to list these by line item code using OE publication 22017 for categorizing these materials needed for project implementation.

GUIDELINES FOR CERTAIN INSTRUCTIONAL PURCHASES UNDER TITLE I, ESEA SERVICES

School Year 1966-67 - (Format to be used in presenting project for approval by SEA.)

A list of equipment and instructional materials must accompany the project application justifying the amount of money budgeted. The list usually includes equipment, supplies, audio-visual materials, instructional materials, other textbooks, workbooks, etc.; however, justification and approval by line item code necessitates a more detailed list submitted by categories.

The following form is a guideline for the breakdown of the above mentioned items. The form may be used as is or slightly revised to attach to the project applications.

SAMPLE FORM - NEW MEXICO TITLE I, ESEA

Sample (Audio-Visual Materials)
(Budget line item title)

Sample (230.2)
(Line item number)

QUANTITY	NOMENCLATURE - TITLE or DESCRIPTION	UNIT	$ TOTAL COST (May be est.)
1	Alpha Map Transparencies 3-base maps - 30 overlays	51.00	$51.00

10. Use of Funds for Administration

Three percent of the total amount for the project may be allowed, if requested, for administration.

II. Schedule for Submission of Applications

No cutoff dates have been established for receipt of applications for projects to be operated during the regular school term and for receipt of applications for summer school projects. Local education agencies are contacted individually and offered technical assistance in development of project proposals - the positive approach is the philosophy utilized by the SEA in obtaining proposals and offering assistance.

III. Participation of Children Enrolled in Private Schools

a. Statutes and Legal Opinions -

State statutes, regulations, and Attorney General's opinions governing the relationship of local educational agencies to children enrolled in private schools are included in Appendix I. (State Statutes and Regulations.)

IV. Technical Assistance and Consultative Services Available from SEA

a. Consultative Services

1. Consultative Services in Preparation of Proposals - Individual specialists in the Instructional Services Area work with school administrators and teachers in the field assisting local schools in reviewing present programs of instruction, identifying needs of children, and preparation of project proposals. The School Plant Consultant, Administrative Services Area, upon request, surveys the school building needs of individual school districts and advises them as to the possibility of securing funds under Title I for building purposes especially where it can be shown as the greatest need in providing services to deprived children.

   The Director of School Lunch Program, Administrative Services Area, surveys existing lunchroom facilities and methods of providing free lunches to needy children. These recommendations are considered in project approval.

   The Director of Transportation, Administrative Services Area, reviews requests for field trips and assists with surveys where transportation equipment is to be purchased to protect the health and welfare of students.

   The Director and staff of Vocational Education Services Area verify the need for expansion, enrichment, or extension of present vocational offerings.

The staff of Title I, ESEA Services Area provides individual consultative services to local education agencies either in the office in Santa Fe or in the local educational agency proper. Also, regional and state-wide conferences have been conducted where emphasis was given to understanding federal and state guidelines. Each local educational agency will be contacted at least three times during the school year either in groups or individually.

2. Consultative Services in Evaluation of Projects.

   The Title I Specialist in Program Evaluation will work with the Director of Guidance and Chairman of Research Division in developing efficient and effective means of evaluation. Instruments for evaluating Title I programs will become an inherent part of the program. These instruments will be conducive to automated data processing and will be converted to such form upon receipt by the state office. This will allow complete and immediate interpretation and reporting.

   Workshops on evaluation will be conducted on a regional basis involving not more than ten local education agencies in one meeting.

b. Use of Consultants in the Title I Program for Fiscal Year 1967.

1. To Assist the State Title I Staff

   Consultants will assist the State Title I staff in implementing the Follow-up Conference on Education of the Disadvantaged.

2. To Assist Local Education Agencies

   Several local education agencies have included consultative services in programs for in-service education. The staff of Title I, ESEA Services Area has encouraged LEA officials to plan for consultative assistance in evaluating projects.

V. Fiscal Management and Audit Procedures

A meeting was conducted in Santa Fe prior to the implementation of Title I, ESEA for the 1966-67 school year. At this time, copies of the revised manual of fiscal management and audit procedures were distributed and explained in detail. See appendix J. (Fiscal Management.)

A representative of the Title I, ESEA Services Area attended the public school budget hearings held in the spring of 1966 for each school district. Fiscal management and audit procedures were discussed fully at these hearings.

Memorandums relating to the fiscal management and audit procedures are issued periodically. Changes or clarifications by the United State Office of Education are forwarded to representatives of each local educational agency.

All fiscal management of Title I for the State of New Mexico is now administered through the Title I Services Area in the State Department of Education. When errors are found in the monthly reports, telephone conferences are held immediately. Personal conferences are held both in the Title I office in Santa Fe and at the local level.

Regional meetings are held to discuss these matters with Title I accountants and secretaries.

A representative of the Title I office attended the New Mexico School Business Officials Conference last July and discussed fiscal management and audit procedures.

With only 89 eligible districts in New Mexico for fiscal year 1967, a close working relationship will be maintained with the responsible personnel of local education agencies.

a. No deviation whatsoever is allowed from the state policy in a budget line item without an approved amendment or transfer.

b. Amendments to a project for fiscal year 1967 will require the submission of a new Part II of the project application. Amendment, as defined by Title I in New Mexico, is merely the changing of a project by the addition of funds, or changing of a project for some other reason. Amounts of funds may be changed within an approved project with the use of the attached "Transfer Form". See appendix J. (Fiscal Management.)

c. Title I projects at the local level will be audited by the regular auditor according to the New Mexico Statutes. In addition to this, an auditor will be employed by the State Education Agency to audit every project in the state according to federal regulations. The auditing agency will be the New Mexico State Department of Education with Mr. Leo Dillenschneider, Fiscal Administrator, as the officer- in-charge.

d. The procedure used for auditing the expenditure of State administrative funds will be the same used for auditing all State and Federal funds expended by the New Mexico State Department of Education. The New Mexico State Auditor will audit all funds and the Regional Federal Auditor, Mr. Joe Taylor, will audit Federal funds according to Federal regulations. The agency in charge will be the Office of the New Mexico State Auditor; the officer-in charge, Alex Armijo, State Auditor.

e. The procedure used for auditing projects for handicapped children will be the same as those used for auditing projects for the public schools. A local auditor will audit these projects according to state law. The Title I auditor, to be hired by the State Department of Education, will audit each of these projects according to federal regulations. The officer-in-charge will be Mr. Leo Dillenschneider of the Fiscal Division of the State Department of Education.

f. Copies of the State manual, guides and instruction developed to provide information to auditors or auditing agencies on the audit of Title I accounts, have been distributed. See appendices J and K. (Fiscal Management and Interim Audit Instructions C-10.)

g. Completed audits will be available to Federal auditors for review and will be on file with the State Department of Education, Capitol Building, Santa Fe, New Mexico.

h. Since we are now operating on a continuing resolution on a month-to-month basis, local educational agencies in

New Mexico acquire funds on a monthly basis from a quarterly estimate of need. No school district may be eligible to receive more than 1/12 of the total allocation for 1966-67 for any one month or no more than 3/12 of the total allocation for any one quarter.

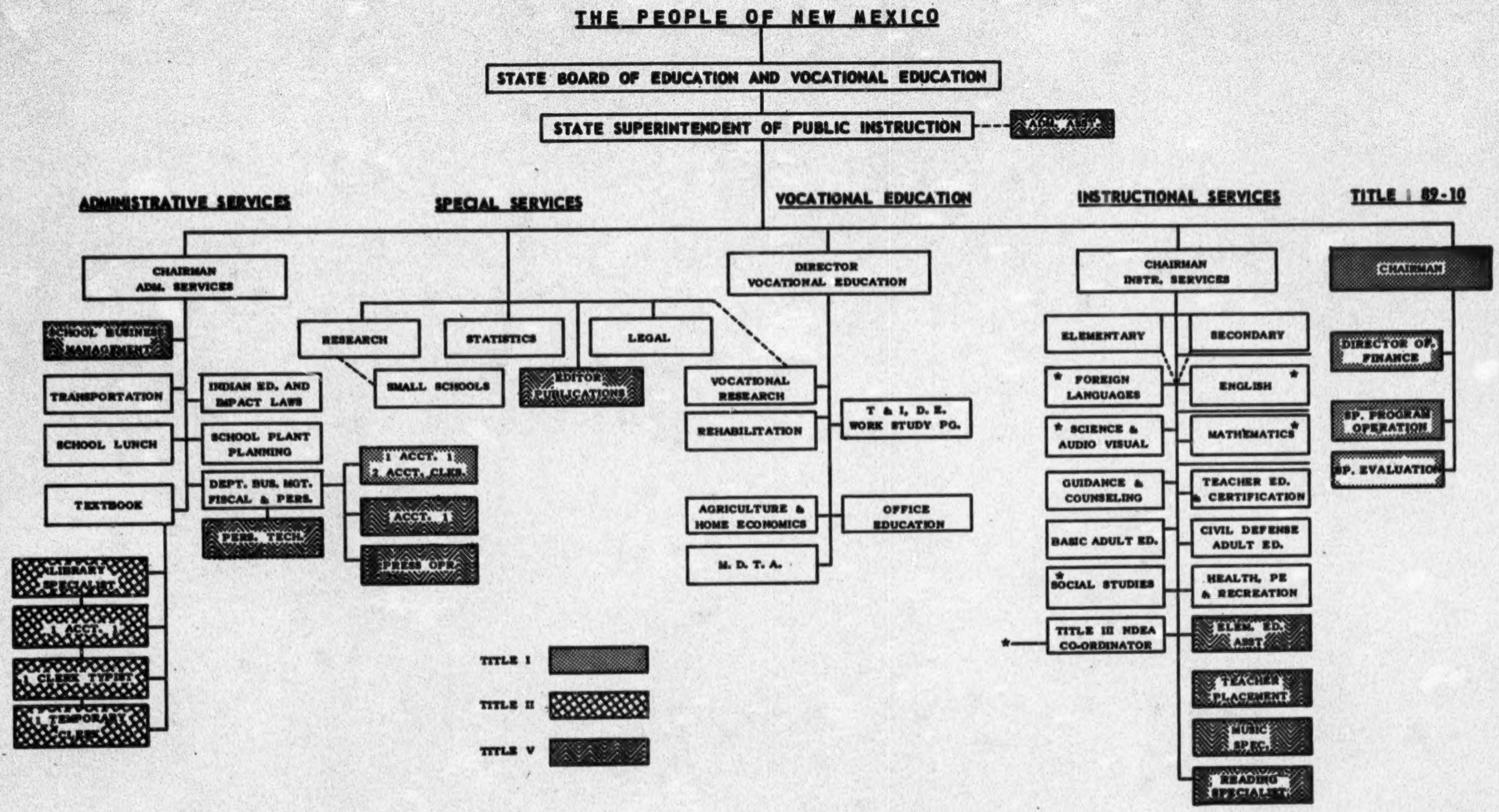
Each school district must file a special budget increase form with the Chief of Public School Finance after final approval has been granted on a 1966-67 project. After this is filed, an estimate of need is filed with the Title I Division of the State Department of Education along with a signed voucher for payment. Payments are then made each month from the "Quarterly Estimate of Need." See appendix J. (Fiscal Management.)

VI. Allocation of Funds

Determination of maximum grants for which local educational agencies are eligible is based on the figures submitted to the State Department of Education from the United States Office of Education based on the 1960 census plus the AFDC information for 1962. In instances where the minor civil divisions overlap school districts, subjective judgement is exercised in the distribution of the eligible children in various school districts. Where school districts overlap county lines, deductions and additions are made accordingly. If superintendents of school districts within a county are not satisfied with the allocations, an opportunity is given to meet with the Chairman of Title I, ESEA Services Area and collectively discuss the possibilities of a reapportionment of eligible children.

APPENDIX - A

Organizational Chart of the State Education Agency and Certificate of Authority


THE PEOPLE OF NEW MEXICO
STATE BOARD OF EDUCATION AND VOCATIONAL EDUCATION
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADM. ASST.
ADMINISTRATIVE SERVICES
SPECIAL SERVICES
VOCATIONAL EDUCATION
INSTRUCTIONAL SERVICES
TITLE I 89-10
CHAIRMAN ADM. SERVICES
SCHOOL BUSINESS MANAGEMENT
TRANSPORTATION
SCHOOL LUNCH
TEXTBOOK
LIBRARY SPECIALIST
1 ACCT. 1
1 CLERK TYPIST
1 TEMPORARY CLERK
INDIAN ED. AND IMPACT LAWS
SCHOOL PLANT PLANNING
DEPT. BUS. MGT. FISCAL & PERS.
PERS. TECH.
1 ACCT. 1
2 ACCT. CLKS.
ACCT. 1
PRESS OPR.
RESEARCH
STATISTICS
LEGAL
SMALL SCHOOLS
EDITOR PUBLICATIONS
DIRECTOR VOCATIONAL EDUCATION
VOCATIONAL RESEARCH
REHABILITATION
T & I, D. E. WORK STUDY PG.
AGRICULTURE & HOME ECONOMICS
OFFICE EDUCATION
M. D. T. A.
CHAIRMAN INSTR. SERVICES
ELEMENTARY
SECONDARY
* FOREIGN LANGUAGES
ENGLISH *
* SCIENCE & AUDIO VISUAL
MATHEMATICS*
GUIDANCE & COUNSELING
TEACHER ED. & CERTIFICATION
BASIC ADULT ED.
CIVIL DEFENSE ADULT ED.
* SOCIAL STUDIES
HEALTH, PE & RECREATION
*
TITLE III NDEA CO-ORDINATOR
ELEM. ED. ASST.
TEACHER PLACEMENT
MUSIC SPEC.
READING SPECIALIST
CHAIRMAN
DIRECTOR OF FINANCE
SP. PROGRAM OPERATION
SP. EVALUATION
TITLE I
TITLE II
TITLE V

APPENDIX - A

Boston E. Witt
Attorney General

Oliver E. Payne
Deputy Attorney General

State of New Mexico
OFFICE OF THE ATTORNEY GENERAL
Department of Justice
Santa Fe

CERTIFICATE

This will certify that the New Mexico Department of Education has the authority under New Mexico Law to perform the duties and functions of a state educational agency under Title II under Public Law 81-874 and the regulations promulgated thereunder including those duties and functions arising from the assurance given in the program.

/s/
Joel M. Carson
Assistant Attorney General

APPENDIX - B

Recommendations for the Fiscal Administration of Title I, ESEA Funds for the 1966-67 Year

RECOMMENDATIONS FOR THE FISCAL ADMINISTRATION OF TITLE I, ESEA FUNDS FOR THE 1966-67YEAR

LOCAL SCHOOL DISTRICT	STATE TITLE I OFFICE	FISCAL DIVISION OF THE STATE DEPT. OF EDUCA.	PUBLIC SCHOOL FINANCE DIVISION
1. Prepares budget for approved project.	2. Project approved. 3. Project posted. 4. Notify Fiscal Division. 5. Public School Finance notified as to amt. of estimated revenue for Item 30.18 of the Estimate Revenue Worksheet and amt. to enter as budgetary line item in the 1500 series.		
6. In reference to a memo received by your school on or about July 26, 1966 from Mr. Harry Wugalter, Chief of Public School Finance concerning budget increases for special projects, please note that after your project has been approved that the Local School Board must file a SPECIAL BUDGET INCREASE FORM with Mr. Wugalter's office in compliance with Section 73-3-9 New Mexico Statutes Annotated, 1953 Compilation (being laws 1967, Chapter 249, Section 7). A supply of these forms is enclosed.			

RECOMMENDATIONS FOR THE FISCAL ADMINISTRATION OF TITLE I, ESEA FUNDS FOR THE 1966-67 YEAR

LOCAL SCHOOL DISTRICT	STATE TITLE I OFFICE	FISCAL DIVISION OF THE STATE DEPT. OF EDUCA.	PUBLIC SCHOOL FINANCE DIVISIO
			7. Receive and analyze SPECIAL BUDGET INCREASE FORM FOR LEA. Please report any discrepancy to the Title I, ESEA office.
8. Prepare and submit Quarterly Estimate of Need to Title I Office.			
	9. Check and receipt LEA's Quarterly Estimate of Need. 10. Submit compiled report of LEA Need to Fiscal Division. 11. Prepare vouchers and send to fiscal division.		
		12. Issue Letter of Credit to Federal Reserve Bank. 13. Forward a compiled voucher to the Department of Finance & Administration of the amts. of each voucher and warrant to be issued to the County Treasurer or school district.	
			14. Issue and mail letter of Trans mittal to the County Treasurer or school district. 15. Check receipt of warrants as issued from the Monthly Cash report. 16. Check the 1500 series from the Monthly Budget Report.
17. Submit Record and Report of Local Expenditures to Title I Office on 10th of each month.			
	18. Receive and analyze Record and Report of Local Expenditures.		

RECOMMENDATIONS FOR THE FISCAL ADMINISTRATION OF TITLE I ESEA FUNDS FOR THE 1966-67 YEAR

LOCAL SCHOOL DISTRICT	STATE TITLE I OFFICE	FISCAL DIVISION OF THE STATE DEPT. OF EDUCA.	PUBLIC SCHOOL FINANCE DIVISION
	19. Check expenditures with projects as approved.		
	20. Compare the Record & Report of Local Expenditures with the Quarterly Estimate of Need for prior month and following month.		
	21. Notify LEA of any corrections or acceptance.		
22. Prepare and submit the Quarterly Budget Report for Title I.	23. Receive and analyze Quarterly Budget Report.		
	24. Check expenditures with approved project.		
	25. Check expenditures with Quarterly Budget Report.		
	26. Compare with Quarterly Estimate of Need.		
	27. Notify LEA of Receipt and/or changes.		
28. Prepare and submit transfers and amendments if necessary to Title I Office.	29. Receive and analyze the transfers and amendments.		
	30. Check transfers & amendments with the original project.		
	31. Check transfers & amendments with the Monthly Record & Report of Local Expenditures.		
	32. Check transfers & amendments with the Quarterly Budget Report.		

RECOMMENDATIONS FOR THE FISCAL ADMINISTRATION OF TITLE I, ESEA FUNDS FOR THE 1966-67 YEAR

LOCAL SCHOOL DISTRICT	STATE TITLE I OFFICE	FISCAL DIVISION OF THE STATE DEPT. OF EDUCA.	PUBLIC SCHOOL FINANCE DIVISION
	33. Compare transfers & amendments with the Quarterly Estimate of Need. 34. Notify the LEA of receipt and changes if any. 35. Prepare & submit the Quarterly Report of Obligations to the Fiscal Division for Title I, ESEA.		
		36. Submit Quarterly Report of Obligations to the U.S.O.E. in Sept., Dec., March, and June.	
	37. Notify the Chief of Public School Finance of any change [illegible]n Title I revenue or budgetary line item.		
			38. Notify the Title I, ESEA office of any discrepancy in the estimate of revenue or balance in the line item: P.L. 89-10, 66-67.

APPENDIX - C

Summary of Organizational Meetings

APPENDIX - C

REPORT OF THE WELFARE EDUCATION CONFERENCE ON EDUCATION AND SOCIAL SERVICES OF CHILDREN AND PARENTS

Morgan Hall, September 16, 1966
9:00 a.m. to 3:00 p.m.

I. Participants

- A. Department of Education
- B. Regional Office of Education
- C. U. S. Office of Education
- D. Department of Welfare
- E. Children's Bureau - Regional Office
- F. Bureau of Family Service - Regional Office
  (Complete list of participants attached.)

II. Purpose of Conference

A. To explore the resources of State Agencies responsible for educational and social services.

B. To explore how these resources can be used more effectively.

C. To discuss ways in which these services can be extended and improved to meet the needs of children and their parents.

III. Conference Agenda

A. Introduction of Conferees

B. Role of each Agency - Leonard J. De Layo, Superintendent of Public Instruction

- Leo Murphy, Director of Welfare Department

C. Discussions

1. Existing programs of education and social services for children and parents.

2. Resources available through recent Federal and State legislation.

3. Future plans and methods for continued joint planning and action.

IV. Observations and Implications

A. Mutual Concerns

1. Education

2. Social Services

3. Health needs

4. Unmet physiological, social and psychological needs

B. Recommended Study

1. Of unmet needs in identified areas

2. De Layo and Murphy to instigate through Wicks
Collaborated effort of health, education, welfare

C. Follow-up Meeting To Be Held

1. To organize a coordinating council

2. To be held second week in December

D. In The Interim Committees Appointed To Begin Collaborative Action and Report At December Meeting.

1. Officials of the Coordinating Council

Robert Esparza, Chairman, Education Department
Lillian Coy, Department of Public Welfare
Dr. Alvina Looran, Department of Public Health

Purpose: To submit slate of officers and set date of December meeting

2. Pre-school education, health and social services

Ralph Drake, Chairman, Education Department
Thelma McClure, Department of Public Welfare
Charles Owens, Department of Education
Bill Caperton, Department of Education
Tom Shivas, Department of Public Welfare
Hilda Raveling, Department of Health

Purpose: To study existing services and determine legislative planning

3. Program development for school-age children with physical or mental handicaps

Geraldine Kleinfeld, Chairman, Department of Public Welfare
Dr. Robert Swanson, Department of Education
Polly Bushey, Department of Public Welfare
John Allanson, Department of Health
Katherine Buckles, Department of Public Welfare

Purpose: To develop a brief report on outstanding problems in meeting needs of these children and identifying existing resources

4. Material needs of pre-school and school age children (food, clothing, medical)

Vincente Pacheco, Chairman, Department of Public Welfare
Marguerite LaMotte, Department of Education
John Allanson, Department of Health
Calloway Taulbee, Department of Education
Weldon Perrin, Department of Education

Purpose: To develop some common understandings of present available resources and means of disseminating the information

5. Adult health, education, and welfare needs

Clem Hill, Chairman, Department of Education
Facundo Rodriguez, Department of Public Welfare
M. G. Hunt, Department of Education
K. Rose Wood, Department of Public Welfare

Purpose: To plan for legislative action and coordinate existing services

6. Research

Merrill Redemer, Chairman, Department of Education
Lillian Coy, Department of Public Welfare

Purpose: To determine how present data can be disseminated

7. Pilot project in communication

Facundo Rodriguez, Chairman, Department of Public Welfare
Merrill Redemer, Department of Education
Lillian Coy, Department of Public Welfare
Nora Chavez, Department of Education
Head of Research, Department of Health

Purpose: To establish feasibility of developing a pilot project on compiling data from the Department of Health, Education and Welfare which would facilitate better communication among the agencies

8. Vocational Education

M. G. Hunt, Chairman, Department of Education
Vicente Pacheco, Department of Public Welfare
B. Krivokapich, Department of Education
Robert Esparza, Department of Education
Facundo Rodriguez, Department of Public Welfare

Purpose: To plan for legislative action and identifying unmet needs and gaps

Submitted by -

Mildred Fitzpatrick
Acting Chairman

NOTE: Without a secretary recording minutes for the above Conference, I would appreciate your reading this carefully and making any suggestions, additions, deletions or corrections.

Thanks!

WELFARE-EDUCATION CONFERENCE ON EDUCATION AND SOCIAL SERVICES FOR CHILDREN AND THEIR PARENTS

Santa Fe, New Mexico
September 16, 1966

DPW - Department of Public Welfare
SDE - State Department of Education
DHEW-OE - Department of Health, Education and Welfare, Office of Education
UNM - University of New Mexico
MDTA - Manpower Development Training Act
USOE - U. S. Office of Education

NAME	POSITION	AGENCY
Vicente Pacheco	Supervisor, Division Family Services	DPW
Katherine Buckles representing Shirley Van Haren	Supervisor, Child Welfare Services	DPW
Facundo R. Rodriguez	Supervisor, Work Experience and Training	DPW
Polly Bushey	Supervisor, Staff Development	DPW
Geraldine Kleinfeld	Supervisor, Crippled Children's Services	DPW
Nora Chavez	Administrative Assistant, P. L. 874-815	SDE
Bob Swanson	Director, Guidance and Special Education	SDE
Pat O. Mancini	Division of Compensatory Education	DHEW-OE
Jane Ritter	ESEA, Title I Program Officer	DHEW-OE, Chicago
John A. Hegar	Administrative Officer	USOE- Dallas
Creighton Brown	Civil Defense, Adult Education	SDE
Leonard J. De Layo	State Superintendent	SDE
Charles S. Owens	Director, Indian Education and Federal Impact Laws	SDE

NAME	POSITION	AGENCY
Clarence M. Hill	Director, Basic Adult Education	SDE
Merrill Redemer	Director of Research	SDE
Thomas B. Bailey	Director of Designing Education For the Future	SDE
Bill Barnes	Assistant Director, Research Co-ordinating Unit	SDE
Calloway Taulbee	Chairman, Instructional Services	SDE
Robert Esparza	Director, Secondary Education	SDE
M. G. Hunt	State Director, Vocational Education	SDE
B. Krivokapich	State Director, Vocational Education	State MDTA
Tom Shivas	Medical Care Division	NM DPW
E. Navrot	Assistant Director for Technical Services Center for Community Action Services	UNM
K. Rose Wood	Community Services and Program on Aging	DPW
Thelma McClure	Day Care Consultant	DPW
Lillian Coy	Research and Statistics	DPW
Mildred Fitzpatrick	Chairman, Title I, ESEA Services	SDE
Mary Lois Pyles	Regional Child Welfare Representative	DHEW- Dallas Children's Bureau
Bill Caperton	Program Operations, Title I	SDE
Ruth Alfery	Associated Regional Representative, Bureau of Family Services	HEW
Leo Murphy	Director	DPW
Alice Sweeney	School Lunch	SDE
Bonnie McCrary	School Lunch	SDE

JOINT MEETING; STATE DEPARTMENT OF EDUCATION AND STATE DEPARTMENT OF PUBLIC WELFARE

SEPTEMBER 16, 1966
MORGAN HALL, SANTA FE

The meeting was arranged in response to recommendations for such a meeting from the Commissioner of Education and the Commissioner of Welfare in Washington, D. C.

Persons present included 10 from the Department of Public Welfare, 17 from the Department of Education, 3 from the regional and central federal offices of education and 2 from the regional office of the Bureau of Family Services.

The recommendations for such inter-agency meetings were triggered by an incident in Washington, D. C. The Commissioner of Welfare read a newspaper item describing purchase of shoes for a school child by a school. She promptly contacted education officials to explain that supplying food, clothing, and shelter is a welfare responsibility.

They began to wonder how much education and welfare knew about each other's problems and programs at local and state levels throughout the nation. Familiarities with each other's programs and close cooperation between the agencies is particularly important as both are adding services in the War on Poverty.

Title I of the Elementary and Secondary Education Act provided federal assistance to schools to expand, enlarge, and experiment with programs to help the disadvantaged child make the best use of education. Of the 90 school districts in New Mexico, 89 qualify for Title I projects. Three state institutions also qualify, the schools for blind, deaf, and mentally retarded.

Under Title I, the federal level designates the amount of money for the state and for each county. The State Department of Education divides the funds within the county. The school district analyzes the characteristics of the educationally deprived children within the district and develops local projects in conjunction with the Community Action Program. The requirement for local coordination presents some problems: as of September 16th, certain teachers did not get pay checks because 5 CAP's had not yet signed the school district project design and application for funds. The schools which are not public schools must also agree to school district project proposals, including non-accredited mission schools on the reservation. Special private schools for the mentally retarded are excluded from Title I at the present time.

Every school system in the state has been supplied with a big fat loose-leaf binder with instructions about Title I.

Indian children have had special provision made for their education since the Johnson-O'Malley Act was passed in 1936. The Bureau of Indian Affairs has a contract with the New Mexico Department of Education which supplies over $1,000,000 for special needs of Indian children. Over one-third of this goes for meals. Instructional services for Indian children in the early grades include additional teachers and additional school supplies.

Schools are reimbursed for purchasing items that parents would normally supply. At present, 21 New Mexico school districts have 14,000 Indian children in public schools, with about 10,000 of these receiving services on the Johnson-O'Malley Act.

It is the impression of the State Department of Education that many Indian tribes, after 80 or 90 years of paternalism from the federal level, feel that they should always continue to get these special services simply because they are Indians regardless of the present abilities to provide more adequately for their children themselves. The local school district determines the definition of "indigent."

Vocational education in New Mexico has been greatly enlarged since the Vocational Act of 1963. Prior to 1963, most vocational programs in the schools were agriculture and home economics under the Smith-Hughes Act.

Current vocational programs include agriculture, distributive education, home economics for employment, office education, trades and industrial programs, and technical programs.

Most schools have one or more vocational programs, with agriculture and home economics most frequently offered. Small high schools are still disadvantaged. For example, Mosquero High School struggled with a building trades vocational course for two years and still could not get the minimum number of students for such a course and it had to be discontinued.

Evening courses for skill improvement are being offered.

We now have three vocational schools in the state, which serve large areas, not just the local school district. At El Rito, over 200 students this year are in vocational programs including building trades, barber school and cosmetology. In Albuquerque, the Technical Vocational Institute has over 600 full-time students and 2,000 part-time and evening students. The vocational school in Hobbs is just opening for the first time.

Eastern, Highland, and New Mexico State offer technological courses.

The Vocational Act of 1963 specifies that the training offered must lead directly to a specific skill saleable in the labor market.

The Vocational Act of 1963 also includes a work study program through which over 400 students were assisted last year. The student works at $.90 an hour for a school or any pupil agency, with maximum earnings of $45.00 a month or $350.00 in the school year.

An experimental program for disadvantaged children was carried out in Carrizozo last year with unemployed dropouts. The boys were hired for work in the schools and the girls were trained for maid and waitress work.

In cooperation with REA, training in safety was offered for new employees in electrical work.

The Manpower Development and Training Act is a separate act which supersedes the Area Redevelopment Act. Under MDTA the Employment Service notifies the Vocational Division of the need for a training course, and the Vocational Education Division sets up and arranges the training, which can include basic education. For example, people have been trained as cottage parents for the institution for mentally retarded.

Over 500 people have received training under MDTA this past year, and over 80% have been placed in jobs. The average cost per trainee for instruction, supplies, and equipment was $600.00. The rate of job placement for trainees will probably drop as training is extended to people of lower qualifications.

Under the Economic Opportunity Act of 1964, funds have become available for adult basic education for adults over 18 who have less than an eighth grade capability. State Department of Education provides adult basic education under Title II-B of EOA. Some 2,000 people benefited from this program last year and over 200 of these were able to qualify for a high school equivalency certificate. "This year we have already expended the money we hope to get." If the necessary funds are approved, adult basic education can be provided for 3,500 to 4,000 adults.

The adult basic education staff of the State Department of Education works in conjunction with the local school districts and the local community action program in evaluating the need for and in setting up the courses. They also work closely with Department of Public Welfare staff in the DPW Work Experience and Training Program. They also work closely with Headstart Programs, providing adult basic education for the parents of the children in Headstart Programs.

The Department of Public Welfare has provided 19 adult basic education classes under Title V of the Economic Opportunity Act, as persons receiving public assistance generally have quite limited education. However, such programs may be offered under Title V only in the areas of the state in which the State Department of Education adult basic education program is not operating. Funds have not yet been made available to the Department of Education in large enough quantities to meet the serious need for such programs in New Mexico.

The New Mexico Council of Churches is providing some adult basic education courses in their H.E.L.P. Program under Title III-B of the Economic Opportunity Act. H.E.L.P. is limited to services to seasonal migratory workers.

At the present time, the Vocational Education Division is not providing any adult basic education classes but is acutely aware of the serious need for such services as many unemployed persons need basic education before they can take pre-vocational courses to prepare them for vocational training. The Vocational Education Division has submitted proposals for adult basic education but these have been rejected at the federal level on the grounds that other programs should be meeting this need.

Community Action programs can apply for anything and it is hoped that many of them will set up programs for adult basic education. In some communities, the CAP is meeting part of the cost of adult basic education and the State Department of Education is supplying instructors and materials.

The Vocational Education Division has met with community action programs throughout the state, encouraging the local CAP to work with the local MDTA committee in evaluating needs for vocational training and proposing programs. In some communities, neither committee had known that the other existed.

It was pointed out that only two agencies are involved in today's meeting. Many of the programs being discussed today are related to activities in which the Army, the Department of Agriculture and Department of Commerce are interested. It was suggested that for further inter-agency meetings, representatives be obtained from these groups.

It was also obvious that matters of health are involved in all these programs. The Department of Public Health should be included.

The School Lunch Division brought in the resolution proposed by the Committee on Action for Nutrition, requesting that food stamp regulations be changed to permit families receiving food stamps to use the stamps for school lunches. This would assure better nutrition for at least one meal a day. Many families receiving the food stamps do not know how to make the best use of them in purchasing food in stores.

Out of 678 schools in New Mexico, 573 now have school lunch programs. There was considerable discussion about the availability of free lunches for poor children. The Department of Public Welfare reported that families receiving financial assistance were in some areas required to pay for school lunches. The Department of Education understood that free lunches were available whenever needed. The local school has the authority to decide when free lunches are really needed and when the family should be required to pay for the lunches. The Department of Public Welfare wondered whether there was a stigma involved for the child who received a free lunch. The Department of Education understood that the matter is handled with discretion in the local schools and that no stigma is attached.

The Department of Public Welfare explained programs it administers. These include financial assistance for needy adults who are 65 or over, or are blind, or are permanently and totally disabled. Limited assistance can be given to a needy adult who is temporarily totally disabled.

Financial assistance may also be given to children who are deprived of parental support because of the death, disability, or the absence of one or both parents. The Department has detailed regulations to define the term "needy". Financial assistance is limited to persons who are residents of New Mexico.

The Department of Public Welfare also administers the food programs of the Department of Agriculture, direct distribution of food commodities in some counties and issuing food stamps in other counties. Need is the major eligibility factor in these programs.

Title V of the Economic Opportunity Act of 1964 provides funds for Departments of Public Welfare to establish Work Experience and Training Programs where such programs were not available through other sources. Work

Experience and Training courses have been conducted in most areas of the state and approval has been received for continuing the program in fiscal year 1967.

The Department of Public Welfare provides Child Welfare Services. In addition to counseling services for children and parents in their own homes, the program includes foster care for children who have serious reasons for not remaining in their own homes. Over 800 children are in foster family homes, with the Department paying for their care. If needed, an amount can be added to the payment during the school year specifically to pay for school lunches.

Necessary medical care is supplied for persons receiving financial assistance, for persons in Work Experience and Training Programs, and for children in foster care.

The Department of Public Welfare also administers the Crippled Children Services Program, which provides diagnostic and treatment services for children whose parents are unable to pay for necessary care within six diagnostic groups: orthopedic, plastic, eye pathology, convulsive seizures, conservation of hearing, and congenital heart disease.

The medical examinations provided for children in Headstarts have resulted in many additional referrals for Crippled Children Services.

It appears that many programs discussed today involved health benefits for children. Headstart, Crippled Children Services, Aid to Families with Dependent Children, Child Welfare Services, and Title I of the ESEA, all are concerned with health problems. The need for coordination among these programs is obvious.

The problem of clothing for children is also involved in all these programs. In New Mexico, the Welfare Department does not supply clothing for all needy children, as financial assistance is limited to the families described above, and the amount of financial assistance given to those who qualify is quite limited. Money for other school expenses is also a problem.

It was recommended that the problems of clothing and school expenses be considered under the general heading of guidance and counseling and social services.

Special educational services for exceptional children were started in New Mexico only within the last 10 or 15 years. Additional state money is available to school districts which include special education in their programs. However, the amounts of money available are not yet sufficient to meet all the need. The law encouraging school districts to provide special education is permissive; districts are not required to provide such programs.

Federal programs providing financial help for special education services do not take into consideration the miles of travel involved in sparsely settled western areas. A rural district may have only a few exceptional children and the cost per child for special education runs far above the cost per child in metropolitan areas.

Another problem in special education is the lack of teachers with the necessary qualifications. At the present time, 12 teachers are now in training for special education work with the help of grants from the Department of Education. Only recently have New Mexico Universities started to develop teacher-training programs in this specialized field. Title I of ESEA has helped get some additional projects started in New Mexico but lack of teachers is still a problem.

In spite of the problems, over 2,000 children in New Mexico are now in special education classes.

In services for pre-school children, Title I, ESEA, the Department of Education now has some 2,700 children in public school projects and 69 in projects in non-public schools. The Department of Public Welfare added a Day Care Program to its Child Welfare Services a few years ago. At this point the Department operates one Day Care Center in Santa Fe with about 20 children. This serves as a demonstration and teaching center to train people who are interested in working with children of this age. The day care consultant also consults with persons and organizations interested in day care, and privately operated day care facilities throughout the state. A day care center is to supplement family care, its not just "babysitting". Day care service should be based on social service evaluation, with a child accepted only if the day care center plan is in the best interest of the child. Efforts are under way to form an association for day care center staff members throughout the state, so that workshops and other services to staff may be more readily available.

Family day care homes, preferred for the very young children, are being developed but progress is slow.

Research Divisions in both the Department of Public Welfare and the Department of Education compile and disseminate a great deal of information about programs in their respective agencies.

The conclusion of the day was that we need to share information fully as to needs of people, services being offered, unmet needs, and any potential duplication of efforts. It was obvious that other agencies also need to share in such meetings as this.

It was agreed that the group would meet again early in December.

Committees were established to study various areas of operations and report back at the December meeting. A steering committee was appointed to develop enough organization so that responsibility would be clear for the necessary actions to continue this valuable get-together.

Compiled By:
Lillian Coy
Assistant Supervisor
Division of Research and Statistics

APPENDIX - D

Joint Letters from Leonard De Layo and Frank McGuire

Appendix - D

DATE: November 15, 1965

TO: New Mexico Public School Superintendents,
Board Chairman, Board Members

Community Action Agencies, Chairmen, Directors
Board Members

FROM: New Mexico Department of Education
Leonard DeLayo, Superintendent

New Mexico Division of Economic Opportunity
Frank McGuire, Director

SUBJECT: COOPERATION AND COORDINATION OF ELEMENTARY AND SECONDARY ACT PROGRAMS AND ECONOMIC OPPORTUNITY ACT PROGRAMS

In compliance with provisions of Public Law 89-10, (the Elementary and Secondary Education Act) and Public Law 88-452 (the Economic Opportunity Act of 1964) school boards and community action agencies are being encouraged to work closely with each other in the development of programs that concern either of the two above mentioned Acts.

Specifically, the paragraph below refers to Section 205 (a) and paragraph seven under Section 205 (a) of Public Law 89-10 and points out the need for close cooperation.

> "Section 205 (a) A local education agency may receive a basic grant or a special incentive grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)--
>
> "(7) that wherever there is, in the area served by the local education agency, a community action program approved pursuant to Title II of the Economic Opportunity Act of 1964 (Public Law 88-452) the programs and projects have been developed in cooperation with the public or private nonprofit agency responsible for the community action program; and..."

In this packet, you will find a copy of a portion of the guidelines that relate to the Elementary and Secondary Education Act and which spell out specifically how community action agencies and local school boards should be closely involved in the development of education programs, as well as a copy of a letter sent to all Head Start sponsors explaining in some detail what they have in mind.

A joint unit has been created between the Office of Education and the Office of Economic Opportunity which has the responsibility for reviewing programs to make certain that congressional concern for cooperatively developed and executed programs is effectively carried out.

Consequently, school representatives should either be on community action agencies or on their advisory committees or in some other way closely involved in what they are doing; it also follows that a representative of the community action agency should participate with the local school authority in the "development" of programs to be funded under the Elementary and Secondary Education Act.

It should be understood that community action agencies do not have approval or disapproval authority over school boards and their education programs, however.

To ensure that cooperation has occurred, each school board which submits a proposal to the State Department of Education will be asked to submit a letter to the state agency stating that it (the community action agency) has been consulted with and that it has participated in the development of the program.

School boards should please consider this letter as notification of this request.

It should also be pointed out that local schools should be consulted with concerning any CAP components that pertain to education programs.

DATE: March 31, 1966

TO: New Mexico Public School Superintendents,
Board Chairmen, Board Members

Community Action Agencies, Chairmen, Directors,
Board Members

FROM: New Mexico Department of Education
Leonard DeLayo, Superintendent

New Mexico Division of Economic Opportunity
Frank McGuire, Director

SUBJECT: COOPERATION AND COORDINATION OF ELEMENTARY AND SECONDARY ACT PROGRAMS AND ECONOMIC OPPORTUNITY ACT PROGRAMS

Supplementing our joint memorandum dated November 15, 1965, regarding Public Law 89-10, (the Elementary and Secondary Education Act) and Public Law 88-452 (the Economic Opportunity Act of 1964; following are more complete guidelines for cooperation and coordination between school systems and community action agencies. (Guidelines: Special Programs for Educationally Deprived Children, Pages 27 and 28).

> "Cooperation with Community Action Agencies." Under section 205 (a) (7), the State educational agency must determine---
>
> "that wherever there is, in the area served by the local educational agency, a community action program approved pursuant to Title II of the Economic Opportunity Act of 1964 (Public Law 88-452), the programs and projects have been developed in cooperation with the public or private nonprofit agency responsible for the community action program.
>
> "Cooperation here means continuous and genuine working relationships during the period when programs are being planned and developed, as well as when they are being carried out. A healthy working arrangement between the local community action agency and the school system, already started in many communities, will help to create a climate in which these two agencies, as well as others, can fashion and shape their respective programs to complement and supplement one another, in accordance with the wording and intent of both the Elementary and Secondary Education Act and the Economic Opportunity Act, thereby avoiding competition, waste, and duplication. Cooperation does not permit the commingling of funds, but does permit the simultaneous use of funds under each of these acts to finance identifiable portions of a single project.

"Cooperation between the local educational agency and the local community action agency should insure that--

- --Programs are tailored to the interest of each act.
- --Programs proposed under one act reinforce programs proposed under the other act.
- --Comprehensive plans are developed to take advantage of other available legislation, such as the Manpower Development and Training Act, the Vocational Education Act, the Higher Education Act, by working with other agencies of social welfare to attack the problem along conceptual lines rather than institutional lines.

"Some evidence to substantiate the cooperation to the State would be--

- --A description of the representation of the local community action agency on planning and advisory committees during the planning, development, and operational stages of projects and programs.

- --A description of the procedure for continuous review and discussion of plans and operations between the local educational agency and the community action agency with regard to their respective programs.
- --A letter from the local community action agency stating that the community action agency has worked cooperatively with the local educational agency to develop the proposed projects and intends to continue its cooperation through the life of the projects or programs.
- --A description of the attempts by the local educational agency to enlist the cooperation of the community action agency from the beginning of the planning stage.
- --A description of the representation of the local educational agency on the board of the public or private nonprofit agency responsible for the community action program.

"In any case, a letter from the local community action agency should be included with the proposed project, stating that the community action agency has seen the project and concurs or does not concur with it. The local educational agency should be willing to include a similar letter in proposals made by local community action agencies to the Office of Economic Opportunity.

"Responsibility for carrying out the projects authorized under Title I of Public Law 89-10 is, of course, lodged with local educational agencies, and these guidelines should in no way be interpreted as giving local community action agencies a veto over Title I programs. What is required is that local educational agencies develop their program in cooperation with local community action agencies. Similarly it is expected that when community action programs are planned, cooperation will be sought with the local educational agencies.

"At the State level a check system should be developed, if it does not already exist, to assure the coordination of these two programs. Such a system would allow the State technical assistance coordinator of the Office of Economic Opportunity to examine Title I projects to see that community action agencies are working with local education agencies. Similarly, the State educational agency should be able to examine community action projects in the field of education to insure that local educational agencies are working with community action agencies. Any persistent disagreement between a community action agency and a local education agency might be made the subject of a joint inquiry by the State educational agency and the State technical assistance agency."

PARAGRAPH 116.24
RELATION TO COMMUNITY ACTION PROGRAMS
Federal Register Volume 30--Number 178
Office of Education

(a) The application for a grant for a project shall state whether there is in the school district of the local educational agency a community action program approved pursuant to Title II of the Economic Opportunity Act of 1964 (Public Law 88-452) and, if so, that the project has been developed in cooperation with the public or nonprofit agency responsible for such a community action program with the view, among other things, of avoiding duplication of effort. The local educational agency shall seek to establish and maintain genuine working relationships with such public or nonprofit agency during the operation of the project.

(b) Cooperation with the community action program does not permit the commingling of funds under Title II of the Act with funds under Title II of the Economic Opportunity Act of 1964, but does permit the simultaneous use of funds under each of those Acts to finance identifiable portions of a single project.

APPENDIX - E

Cooperation and Coordination of Elementary and Secondary Education Act Programs and Economic Opportunity Act Programs

APPENDIX - E

INFORMATION REGARDING TITLE I, ESEA COOPERATION WITH COMMUNITY ACTION AGENCIES

Cooperation with Community Action Agencies. OE-35079 p.p. 27-28

Under section 205 (a) (7), the State educational agency must determine--

> That wherever there is, in the area served by the local educational agency, a community action program approved pursuant to Title II of the Economic Opportunity Act of 1964 (Public Law 88-452), the programs and projects have been developed in cooperation with the public or private nonprofit agency responsible for the community action program.

Cooperation here means continuous and genuine working relationships during the period when programs are being planned and developed, as well as when they are being implemented.

THE MAJOR PROVISIONS OF THE COOPERATION ARE AS FOLLOWS:

1. LEAs, in planning Title I projects, will develop their proposed programs in cooperation with the CAA located in the same area. A Community Action Agency is defined as one that has received Federal aid under Sections 204 and 205 of Title II-A and meets criteria in CAP Guide - Volume 1, Part B, Section 6. Community, as defined by the language of Title I of P.L. 89-10, is the area served by the local educational agency. The CAA will submit a statement or letter assuring review of the projects and their comments, if any.
2. CAAs in planning education projects involving public school children or the public school system will develop their proposed programs in cooperation with LEAs in the same area. LEAs will submit a statement or letter assuring review of the projects and their comments, if any.

3. LEAs will allow 15 days from date of formal request for CAAs to complete the suggested form contained on page 53 of the Revised Instructions before forwarding the Title I application to the SEA. The CAA will allow 15 days from date of formal request for LEAs to respond to request for completion of suggested form bearing upon education components in CAP proposals before forwarding the proposal to O.E.O. regional office.
4. In the event LEAs or CAAs are unable to obtain a completed form or letter from their counterparts in the stated length of time, they should forward their application to the State educational agency or the O.E.O. regional office, as appropriate, with a statement of the efforts made to secure a sign off.
5. Where the State educational agency receives a Title I application with a statement from a CAA which states (1) that it has certain objections to the project; or (2) that it was not consulted in the planning; or (3) that the project lacks coordination with the CAP, the SEA will contact the State technical assistance agency (governor's representative for anti-poverty activities). No action would be taken on State approval or disapproval of the application in question for 15 days while SEA and STA seek to resolve the differences at the local level.

   A similar procedure will be set in motion where the O.E.O. regional office receives an application with a completed form indicating any of the three unfavorable reactions listed above. It will immediately contact the SEA and will defer any approval or disapproval action on the CAP application in question for 15 days. Regional offices of HEW and O.E.O. may be brought in if their assistance, in the judgement of the SEA and STA, would be helpful.

6. The appropriate agencies at the State or Regional level, if they find that there are substantial differences that have not been settled at the local and State level to the satisfaction of the principal parties, may decide upon whatever further action should be taken. Such action could include calling upon the Joint Unit or the Educationally Disadvantaged serving OE and O.E.O. to conduct a fact-finding investigation. In that event the SEA or the Regional Office, O.E.O., whichever has final approval authority, should delay approval or disapproval for 15 days to allow the fact-finding activity to take place. A Title I fact-finding report will be submitted to the U.S. Commissioner of Education. A Title II-A fact-finding report will be submitted to the Community Action Program Director in Washington. The Commissioner and Director, CAP, will each receive copies of fact-finding reports submitted to the other.
7. In the case of summer projects, the above stated 15-day delays for negotiation of agreements would be reduced in accordance with the OE and O.E.O. agreement in order to expedite initiation of such projects.
8. Final authority to approve or disapprove Title I applications rests with the SEA which shall act in conformity with the State assurances required under Title I. Final authority to approve Title II-A applications rests with O.E.O. regional offices or the O.E.O. Director, as appropriate.

APPENDIX - F

New Mexico Personnel Board Classification Plan

APPENDIX - F

NEW MEXICO PERSONNEL BOARD CLASSIFICATION PLAN 4412924
ED
ESE PROGRAM SPECIALIST RANGE 44
(ESE PGM SPCL) $690-940

DEFINITION:

Under general direction performs highly responsible advisory work by providing technical assistance to all local education agencies.

EXAMPLES OF WORK PERFORMED:

Plans, organizes and analyzes the provisions of Title I of Elementary and Secondary Education Act of 1965; provides technical assistance to local education agencies in preparation of project proposals; reviews local education agencies project proposals as to size, scope, and quality to ascertain if the intent and provision of Title I ESEA (1965) have been met; reviews and evaluates projects of local education agencies during implementation as to whether they are being conducted in accordance with approved project; provides technical assistance to local education agencies in establishing effective procedures for objective and subjective measurements of educational achievement of the children under the program; determines that payments by local education agencies under Title I ESEA (1965) are used only for programs and projects which were approved by the State education agency; evaluates periodically the effectiveness of such payments of particular programs assisted by them; determines the amount of funds which the local agencies are eligible to receive by means of complex mathematical computation, for any fiscal year; cooperates with the State public school finance office in establishing budgetary procedures compatible with those established for proper disbursement of state monies; ascertains in the case of any construction of school facilities that the project is consistant with overall state plans for the construction of school facilities and that labor standards as specified in Section 209 of Title I ESEA (1965) will be complied with during construction of project; assists local education agencies in adopting and maintaining proper disbursement of and accountability for Federal funds; determines participation of private and parochial schools; coordinates and cooperates with officials of the office of Economic Opportunity and Community Action Programs; assists the area chairman in formulating guidelines, reports, administrative rules and regulations; disseminates to local education agencies pamphlets and brochures; performs related work as assigned.

MINIMUM QUALIFICATIONS:

1. A Master's degree from an accredited college or university with major course work in educational administration, business administration, social sciences, language arts, or counseling and guidance plus four years of successful full-time paid employment in education including accounting, budgeting, teaching, or administration. The following substitution may be made:

Two years additional qualifying experience may be substituted for the required Master's degree.

2. Possession of an applicable New Mexico Department of Education certificate.

3. Thorough knowledge of the special education needs of children of low income families; of teaching methods, materials, and subject matter; of state and federal laws, rules and regulations applicable to the provisions of Title I, Elementary and Secondary Education Act (1965); of interrelatedness of the rules and regulations of Titles I, II, III, IV, and V of the Elementary and Secondary Education Act of (1965); and considerable knowledge of sources of curriculum information; of pertinent professional education publications; and of economic conditions and educational needs of the State of New Mexico; and of the principles and practices of accounting methods and procedures.

4. Ability to plan, organize, and present educational programs; to stimulate others to accept, implement, and evaluate the provisions of Title I, Elementary and Secondary Education Act (1965); to supervise the professional work of others; to express ideas and opinions clearly and concisely both orally and in writing; to prepare clear and comprehensive reports on the projects being administered; and to establish and maintain effective working relationships with professional and lay associates and the general public.

Approved: 9/15/66

APPENDIX - G

Check Lists

PROJECT WORKSHEET

LEA____

FITZPATRICK

General Comments: For office use only.

RECOMMEND:
RETURN TO LEA FOR CORRECTION____________
MAKE CORRECTIONS IN OFFICE____________

Part I, Item 2

Part I, Item 3

Part I, Item 4

Part I, Item 5

Part I, Item 6

Part II, Item 1

Part II, Item 2

Part II, Item 3

Part II, Item 4

Part II, Item 5

Part II, Item 13

Other Deficiencies

PROJECT WORKSHEET

LEA____

HAMMER

General Comments: For office use only.

RECOMMEND:
RETURN TO LEA FOR CORRECTION______________
MAKE CORRECTIONS IN OFFICE________________

Deficiencies to be reported to LEA
Part I, Item 7

Part II, Item 9

Part II, Item 10
Part II, Item 11

Part II, Item 13

Other Deficiencies

PROJECT WORKSHEET

LEA____

PERRIN

General Comments: For office use only.

RECOMMEND:
RETURN TO LEA FOR CORRECTION____________
MAKE CORRECTIONS IN OFFICE____________

Deficiencies to be reported to LEA
Part I, Item 1

Part II, Item 4

Part II, Item 7

Part II, Item 8

Part II, Item 13

Other Deficiencies

PROJECT WORKSHEET

LEA______________________________

CAPERTON

General Comments: For office use only.

RECOMMEND:
RETURN TO LEA FOR CORRECTION__________
MAKE CORRECTIONS IN OFFICE__________

Part I, Item 6

Part II, Item 5

Part II, Item 6

Part II, Item 11

Part II, Item 12

Statement of Community Action

Part II, Item 13

Equipment and Supply lists

Other Deficiencies

TITLE I, ESEA SERVICES

STATE OF NEW MEXICO

DEPARTMENT OF EDUCATION

CAPITOL BUILDING

SANTA FE

LEONARD J. DE LAYO
SUPERINTENDENT OF PUBLIC INSTRUCTION

MILDRED FITZPATRICK
CHAIRMAN, TITLE I, ESEA SERVICES

H. B. HAMMER
DIRECTOR OF EVALUATION

WELDON PERRIN
SPECIALIST, PROGRAM OPERATION

BILL CAPERTON
SPECIALIST, PROGRAM OPERATION

CHECK SHEET
TITLE I PROJECT PROPOSAL 1966-67

NAME OF LEA______________________________

PART I

SECTION	FITZPATRICK	HAMMER	PERRIN	CAPERTON	COOK	MC CHESNEY	LUJAN
1							
2							
3							
4							
5							
6							
7							
Certification							

Received______________________

Code______________________

PART II

SECTION	FITZPATRICK	HAMMER	PERRIN	CAPERTON	COOK	MC CHESNEY	LUJAN
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
Certification							

Code________________________________

Title I P.L.89-10
ROUTING SHEET

Local Educational Agency

	Date	Initial	Comments
1. Received project			
2. Coded			
3. Distribution for analysis			
a. Fitzpatrick			
b. Hammer			
c. Perrin			
d. Caperton			
e. McChesney			
f. Romero			
g. Cook			
h. Lujan			
i. Trujillo			
4. Construction approval			
5. Signatures on budget form:			
a. Mr. DeLayo			
b. Mr. Perrin			
6. Approval by S.E.A. Committee			
7. Analysis of project and letters to specialists			
8. Final check			
9. Distribution of project:			
a. Original, our files with budget			
b. Copy to Washington without budget			
c. Copy to Superintendent with budget, voucher for payment, Estimate of Need form, Special Budget Increase form, Record and Report of Local Expenditures and Quarterly Report form			
d. Copy to School Study Committee with budget			
e. Copy to Legislative Finance Committee with budget			
f. Copy of budget to Wugalter			
10. Letter of approval			

APPENDIX - G

____
DATE

Dear____________________:

The project entitled____
____
and designated as Project No.__________, submitted for funding under Title I, ESEA, has been evaluated by personnel of the Title I Office and acted upon as follows:

a. Approval Granted__________ ____________________
DATE

b. Approved with the following recommendations_____ ____________________
DATE

____
____
____
____

c. Disapproved_____ ____________________
DATE

____
____
____
____

If this office can be of further assistance to you in revising the Project Application, please let us know.

Sincerely,

Mildred Fitzpatrick
Chairman, Title I, ESEA Services

MF:pl

APPENDIX - G

____
DATE

Dear______________________________:

The Project Application entitled____
____
was received in the Office of the Chairman, Title I, ESEA Services on ____________________________and assigned the project number_____________. The project number should be referred to in all future correspondence regarding this particular project application. The date of receipt ________________indicates the first date on which the local educational agency may be reimbursed for costs incurred in the operation of the projects, provided the project is approved. It is expected that approval will be forthcoming in thirty days or less from the date of receipt. Meanwhile appropriate personnel are reviewing the project application to determine if the project is approvable in its present form, approvable with recommendations, or not approvable and what modifications of your project proposal are warranted.

If we can be of further assistance, please let us know.

Sincerely,

Mildred Fitzpatrick
Chairman, Title I, ESEA Services

MF:pl

APPENDIX - H

Evaluation Questionnaire

APPENDIX - ~~B~~ 4

TO ACCOMPANY NARRATIVE IN PROJECT PROPOSAL
(ATTACH TO SEA COPY ONLY.)

QUESTIONNAIRE

PLAN FOR EVALUATING TITLE I, ESEA PROJECTS FY 1967
(See Item 13C, Part II, Application Form)

NAME OF SCHOOL DISTRICT________________________________ DATE____________________

PROJECT CODE NUMBER__________ NUMBER OF ACTIVITIES OR SERVICES EMBRACED IN THE PROJECT NUMBER______________________________

NOTE: COMPLETE A FORM FOR EACH ACTIVITY OR SERVICE. Retain a copy for your file. (YOU MAY COMBINE CLOSELY RELATED CODES IN THE NARRATIVE AND THIS WILL DECREASE THE NUMBER OF QUESTIONNAIRES NEEDED.)

IDENTIFY THE PROJECT ACTIVITY(IES) OR SERVICE(S) (TITLE(S))____________________

OBJECTIVE CODE NUMBER (See page 26 of Instructions for FY 1967 Application Forms, and item 9, Part II of Application Form.)

Objective of the activity or service as indicated in the approved application.

Content and description of the activity or service. Indicate specific procedures being followed to implement and carry out the activity or service.____________

Description of plan for evaluation of this particular activity or service. (See Department of Education Bulletin on Evaluation and U.S. Office of Education pamphlet: "Guidelines: Special Programs for Educationally Deprived Children,"" pages 34-40).

Briefly describe evaluation design (Objective and Subjective).

What baseline data have been collected in this activity? Where applicable list instruments, procedures, and techniques used or to be used in September or October. (It is possible that you had a spring testing program which could be used as this).

List instruments to be used in follow-up near the end of the 1966-67 school year. (Tests, inventories, etc. which may or may not be a regular component of your spring testing program.) Include locally devised tests and non-standard instruments. If appropriate, indicate intended purpose of tests.

Do plans include provision for evaluating changes in emotional, social, mental and physical development as well as in academic growth?__________

Indicate plans for non-test sources of evaluation.

a. Teacher observation__________
b. Periodic teacher check list__________
c. Teacher-pupil conferences__________
d. Teacher evaluation check list__________
e. Pupil self-evaluation check list__________
f. Subjective narrative report(s)__________
g. Anecdotal records__________
h. Case studies__________
i. Questionnaires__________
j. Rating scales__________
k. Sociograms__________
l. Attendance records__________
m. Comparison rating due to increased use of teaching aids__________
n. Attitude scales__________
o. Physical examination__________
p. Audiological survey__________
q. Participation survey__________
r. Interviews__________
s. Reactions__________
t. Administrative rating__________
u. Dropout counts__________
v. Attendance records__________
w. Records of parent involvement__________
x. __________
y. __________
z. __________

Evaluation must be carried out by local educational agency at two levels-- for each discrete project and for a total program comprising all the agency's projects. For evaluation purposes, in those schools with one umbrella type project, the total effort (consisting of several project areas) becomes the program. Have plans been formulated for evaluation of the total program?__________

NATURE AND DEGREES OF EXPECTED CHANGES (Evaluation Strategy).

TYPE AND NUMBER OF STAFF MEMBERS WHO WILL BE INVOLVED IN EVALUATION.

HOW WILL RESULTS OF EVALUATION BE UTILIZED?

(Signature of person completing form)

(School District)

(Position)

DEFINITION OF TERMS

PROJECT ACTIVITY: A project component which is designed to meet certain of the special educational needs of educationally deprived children in the instructional field (Reading, math, etc.).

PROJECT SERVICE: A project component which is designed to meet certain of the related educational needs of educationally deprived children in a supporting field (such as health, guidance and counseling, etc.).

EVALUATION DESIGN: Your plan for obtaining meaningful information and comparative data to judge effectiveness of the projects.

OBJECTIVE DATA: Results of tests, measurements, etc.

SUBJECTIVE DATA: Reports, opinions, judgments, etc.

BASELINES: Procedures or data at the beginning of a project to be used for comparison at end of school year with subsequent data.

INSTRUMENTS: Tests, check lists, observation forms, cumulative record information, etc.

INVENTORIES: Instruments completed by projects for subjective self-analysis, attitudes, opinions, motivations, etc.

APPENDIX - I

State Statutes and Regulations

APPENDIX - I

236 P.2d 949

ZELLERS et al. v. HUFF et al.
No. 5332

Supreme Court of New Mexico.
Sept. 20, 1951.

Lydia C. Zellers and others brought action against Raymond Huff and others for a declaratory judgment and to enjoin certain defendants from teaching sectarian religion in the public schools. The District Court of Santa Fe County, E. T. Hensley, Jr., J., entered a judgment, and the plaintiffs appealed, and the defendants cross-appealed. The Supreme Court, McGhee, J., held that certain defendants who had violated statute providing that no teacher shall use any sectarian or denominational books in schools or teach sectarian doctrine in the schools, should be forever barred from teaching in the public schools, that evidence established intent on part of certain of the defendants to violate such statute, that religious garb and religious insignia must not be worn by teachers while teaching in public schools, and that a church cannot be permitted to operate a school system within public school system.

Judgment affirmed in part.

1. Appeal and Error key 843(2)

Fact that if State Board of Education and Archbishop of Roman Catholic Church continued policies announced in resolution and letter religion would no longer be taught in public schools, and conditions of which plaintiffs complained would be entirely eliminated, would not make appeal by plaintiffs moot, since plaintiffs were entitled to an authoritative declaration of law on the subject.

2. Injunction key 1

The granting or denial of an injunction is to a great degree a matter reting in the conscience of the chancellor.

3. Religious Societies key 6

Payment to religious orders by teachers of money received by them from teaching in public schools did not constitute state aid to religion as denounced by the federal or state constitutions. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12, § 3; art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

4. Constitutional Law key 84

Religious garb and religious insignia must not be worn by teachers during the time that the teachers are on duty as public school teachers. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12, § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

5. Constitutional Law key 84

Teachers while teaching in public schools must refrain from the teaching of sectarian religion and doctrines and dissemination of religious literature. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12, § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

6. Schools and School Districts key 147

Public school teachers must be under the actual control and supervision of responsible school authorities. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12, § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

7. Constitutional Law key 84

A church cannot be permitted to operate a school system within the public school system. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12, § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends, 1, 14.

8. Appeal and Error key 151(6)

Where Archbishop of Roman Catholic Church who had title to church property, was not a party to suit, teachers who were members of Roman Catholic Church, and who were parties to the suit, had no standing on appeal to attack portion of judgment enjoining rental of building owned by church for school purposes where public school authorities did not have absolute control of building. 1941 Comp. § 55-1102; Const. art. 9, § 14; art. 12 § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

9. Constitutional Law key 1

Statutes key 142, 158

Constitutional and statutory provisions are not amended or repealed by failure of officials to enforce them.

10. Constitutional Law key 84

Schools and School Districts key 165

Where certain sisters and brothers of the Roman Catholic Church, who were employed as teachers in public schools, knowingly taught sectarian religion during regular school hours, they were properly enjoined permanently from teaching in the public schools. 1941 Comp. § 55-1102; Const art. 9, § 14; art. 12, § 3, art. 20, § 17; art. 21, § 4; U.S.C.A. Const. Amends. 1, 14.

11. Constitutional Law key 275(1)

Relationship between teachers and their school boards was protected by the federal Constitution against arbitrary deprivation or impairment.

12. Criminal Law key 13

A penal statute so uncertain in meaning or capricious in application as to provide no intelligent standard, is void.

13. Constitutional Law key 275(1)

Schools and School Districts key 127

Statute providing that no teacher shall use any sectarian or denominational books in the schools or teach sectarian doctrine in the schools, and that any teacher violating statute shall be immediately discharged, his certificate to teach school revoked, and be forever barred from receiving any school monies and employment in the public schools of the state, is not so vague and uncertain as to deny teachers due process of law. 1941 Comp. § 55-1102.

14. Schools and School Districts key 165

Evidence established intent on part of certain sisters and brothers of Roman Catholic Church, who were teaching in public schools, to violate statute providing that no teacher shall use any sectarian or denominational books in the schools or teach sectarian doctrine in the schools. 1941 Comp. § 55-1102.

15. Administrative Law and Procedure key 231

Declaratory Judgment key 210

Taxpayers and citizens were not barred from maintaining an action for declaratory judgment and for injunction to restrain sisters and brothers of the Roman Catholic Church, who were teaching in public schools, from teaching sectarian doctrine in the schools in violation of statute because the taxpayers and citizens did not exhaust their alleged administrative remedies, where no provision was made by statute for proceedings by a dissatisfied taxpayer or citizen, and any appeal to State Board of Education or any mandamus action would have been an idle gesture. 1941 Comp. § § 55-105(g)1, 55-1102, 55-1113.

II Statutes, Regulations and Attorney General's Opinions governing relationships of local school boards to children enrolled in private schools.

INTRODUCTORY: Local Boards of Education in New Mexico have no statutory or regulatory relationship with children in private schools. However, some relationship exists by virtue of implementation by the State Board of Education of statutory powers vested in it.

STATUTES:

73-1-1. Authority and duties--Administration of oaths--Delegation of functions to superintendent of public instruction.--The state board of education, pursuant to section 6, Article XII, of the State Constitution, shall be the governing authority of all public elementary and high schools of the state and shall cause the provisions of this chapter to be carried into effect to the end that the school laws of the state shall be properly and uniformly enforced. Said board shall determine public school policies, vocational educational policies, adopt text books, be authorized to accept federal aid to education and shall have control, management and direction of all public schools. Said board shall determine educational policies of the state, and shall enact and publish by-laws for the administration of the public school system. For the purpose of enforcing the provisions of this act the state board of education shall, if necessary, institute legal proceedings. The secretary of the state board of education shall have authority to administer oaths in any part of the state, to witnesses in any matter pending before said board.

Said board is authorized to delegate such administrative and executive functions to the superintendent of public instruction as it may see fit, and the state superintendent of public instruction shall direct the operation of the state department of public education subject to the policies established by the board.

73-1-7. Powers.--The state board of public education shall have the following powers:

A. To adopt a system of school books for use in the public schools and in the name of the state to contract with the publishers of the books for the purchase and delivery thereof, under regulations as the board may prescribe.

B. When funds are made available for such purposes, the state board shall have the power:

(1) To purchase and loan text books to all pupils in public day and evening schools of all elementary, junior high and high school grades;

(2) To adopt a multiple list of books to be used for such loaning purposes;

(3) To designate the courses of study that shall be taught in elementary, junior high and high schools for which the text books shall be loaned;

(4) To permit independent selections by municipal, independent and county districts from the multiple lists so adopted;

(5) To furnish approved books to private or parochial schools, or to pupils or parents at cost, plus the cost of handling, such cost to be determined by the state board of education; and

73-1-7. (continued)

(6) To prescribe and promulgate rules and regulations for the handling and safe-keeping of books so loaned; and to withdraw or withhold the privilege of borrowing books in case of any violation of, or non-compliance with, any such rules and regulations.

C. To adopt a standard of efficiency for business colleges, commercial departments of public schools, and for private and denominational schools, and to issue certificates of recognition to such colleges and schools as meet the standard of efficiency.

D. To adopt and prescribe a course in industrial and vocational education, including domestic science, manual training and agriculture and prescribed regulations for the teaching thereof in all schools.

E. To determine qualifications of persons teaching or desiring to teach school in any of the public, elementary and high schools of the state and to that end promulgate, from time to time, a system of classification of teachers.

F. To certificate teachers according to law and the prescribed classification of the board, and at its descretion to issue temporary teaching certificates in the interim of examinations, but in no case shall a person under the age of eighteen /18/ years be certificated.

G. To suspend or revoke teachers' certificates for incompetency, immorality or for any good and just cause but suspension or revocation hereunder shall only be taken after service of charges upon the accused person and hearing or opportunity to be heard shall have been given the accused.

H. To institute or cause to be instituted, prosecutions against all persons for violations of the schools laws.

I. To make full report of school conditions to the legislature.

J. To prescribe and enforce a course of study, and standards for all schools under the jurisdiction of the state board of public education and to determine the number of credits necessary for graduation.

K. To adopt rules and regulations not inconsistent with law, for its own government and for the government of the public elementary and high schools of the state.

L. To require reports at such times as it may deem necessary, on the forms as it may prescribe, from all schools coming within the provisions of this act, including private and denominational schools, and from all officials thereof.

M. To authorize adult educational programs to be conducted in conjunction with private, parochial or public schools under its jurisdiction and to adopt rules and regulations governing all such adult educational programs.

73-1-9. Additional powers.--The state board of education, in addition to the powers already given it by law, shall have the following powers:

(a) To examine and approve all plans and specifications for the repair or construction of school buildings of five (5) rooms or less: and no contract shall be written or any money expended by any board of education or governing authority of any school district in this state for the repair or construction of any school building in this state until such plans and specifications have been approved by the state board of education or the state superintendent of public instruction. Any contract not so approved shall be absolutely void, and constitute no

73-1-9. (continued)
charge in law or equity against such school board. Provided, however, that this provision shall not apply where the expenditure is a less sum than five hundred dollars ($500.00).

(b) To require all accrediting agencies for the elementary grades, junior high schools and senior high schools operating in the state, to act with the approval and under the direction of the state board of education and the state superintendent of public instruction.

(c) To accept and receive all grants of money from the United States of America or any other agency, made for public school purposes or in any way touching or pertaining to the public school system of the state, and to disburse the same in the manner and for the purposes specified in the grant. No private agency of whatever nature shall introduce, conduct, sponsor or in anywise carry on, or cause to be carried on, any kind of educational program in or for the benefit of the public schools of this state or any of them, without having first obtained the approval of such program by the state board of education or the state superintendent of public instruction.

73-6-1. State board for vocational education created.--There is hereby created a state board for vocational education, the members of which shall be the same as the members of the state board of education.

73-6-2. State division of vocational rehabilitation created.--There is hereby created a state division of vocational rehabilitation which shall be subordinate to said state board for vocational education.

73-6-3. Definitions.--The following definitions shall be used in construing this act [73-6-1 to 73-6-13]:

(a) "State board" means the state board for vocational education;

(b) "Division" means the division of vocational rehabilitation in the state board for vocational education;

(c) "Director" means the director of the division of vocational rehabilitation;

(d) "Employment handicap" means a physical or mental condition which constitutes, contributes to, or, if not corrected, will probably result in an obstruction to occupational performance;

(e) "Disabled individual" means any person who has a substantial employment handicap.

(f) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials;

(g) "Regulations" means regulations made by the director with the approval of the state board.

73-6-4. Director of division of vocational rehabilitation.--The division shall be administered, under the general supervision and direction of the state board, by a director appointed by the board in accordance with established personnel standards and on the basis of education, training, experience, fitness, and demonstrated ability. In carrying out the duties under this act [73-6-1 to 73-6-13] the director.

73-6-4. (continued)

(a) Shall, with the approval of the state board, make regulations governing personnel standards, utilization as may be directed by the state board of any existing state merit system, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings, and such other regulations as he finds necessary to carry out the purposes of this act; appoint and fix compensation for such personnel as he deems necessary for efficient performance;

(b) Shall, with the approval of the state board, establish appropriate subordinate administrative units within the division;

(c) Shall prepare and submit to the state board annual reports of activities and expenditures and shall submit a biennial report to the governor of the state;

(d) Shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes;

(e) Shall, with the approval of the state board, take other action as is deemed necessary or appropriate to carry out the purposes of this act.

73-6-5. Administration.--Except as otherwise provided by law, the state board, through the division, shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible therefor and, in carrying out the purposes of this act /73-6-1 to 73-6-13/, the division is authorized, among other things:

(a) To cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable;

(b) To enter into reciprocal agreement with other states to provide for the vocational rehabilitation of residents of the states concerned;

(c) To conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals;

(d) To expend federal or state moneys for administration, vocational counseling and guidance, and case service.

73-6-6. Cooperation with federal government.--The state board, through the division, shall cooperate, pursuant to agreements, with the federal government in carrying out the purposes of any federal statutes pertaining to vocational rehabilitation and is authorized to adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes.

73-6-7. Receipt and disbursement of vocational rehabilitation funds. --The state treasurer is hereby designated as the custodian of all funds received from the federal government for the purpose of carrying out any federal statutes pertaining to vocational rehabilitation. The state treasurer shall make disbursements from such funds and from all state funds available for vocational rehabilitation purposes upon certification in the manner provided in section 4 (d) /73-6-4(d)/. All

73-6-7. (continued)
federal grants received in adjustment of the federal-state account may be expended in any succeeding year.

73-6-8. Gifts.--The director is hereby authorized and empowered, with the approval of the state board, to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this act [73-6-1 to 73-6-13]. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this act may be so accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift.

73-6-9. Eligibility for vocational rehabilitation.--Vocational rehabilitation services shall be provided to any disabled individual (1) Who is a resident of the state at the time of filing his application therefor and whose vocational rehabilitation, the director determines after full investigation, can be satisfactorily achieved, or (2) who is eligible therefor under the terms of an agreement with another state or with the federal government; Provided, that, except as otherwise provided by law or as specified in any agreement with the federal government with respect to classes of individuals certified to the state board thereunder, the following rehabilitation services shall be provided at public cost only to disabled individuals found to require financial assistance with respect thereto:

(a) Physical restoration;

(b) Transportation other than that provided to determine the elegibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary or for guidance and placement;

(c) Occupational licenses;

(d) Customary occupational tools and equipment;

(e) Maintenance;

(f) Training books and materials.

73-6-10. Maintenance not assignable.--The right of a disabled individual to maintenance under this act [73-6-1 to 73-6-13] shall not be transferable or assignable at law or in equity.

73-6-11. Hearings.--Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the division shall be entitled, in accordance with regulations, to a fair hearing by the state board.

73-6-13. Saving clause.--Nothing in this act [73-6-1 to 73-6-13] shall be construed to deprive any other state agency, department or institution of any powers, duties or responsibilities concerning vocational rehabilitation, public health or public welfare, conferred upon such agency, department or institution by law.

73-6-14. Acceptance of Smith-Hughes Vocational Education Act.--The state of New Mexico hereby accepts the benefits of an Act of Congress, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the state in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subject; and to appropriate money and regulate its expenditure," approved February 23, 1917 [U.S.C., tit. 20, §§ 11 to 15, 16 to 28], and will observe and comply with all the requirements thereof.

73-6-15. Vocational education--Powers and duties of state board of education.--The state board of education is hereby designated as the state board for the purposes of the said act and is hereby given all necessary powers to cooperate with the federal board of vocational education [federal security agency] in the administration of the provisions of the act.

73-6-16. Custody and disbursement of federal vocational education funds.--The state treasurer shall receive and be custodian of all funds appropriated by the United States government to the state of New Mexico for the purposes of the above mentioned act and shall pay out the same on the order of the auditor, who shall have the authority of the state board of education for the drawing of any warrants on this fund, Provided that all such payments must be in harmony with the purposes of the said act, and that the state board of education shall file with the state auditor copies of all vouchers covering the expenditure of such funds.

73-6-17. Acceptance of National Rehabilitation Act.--The state of New Mexico hereby accepts the benefits and provisions of the Act of Congress, entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920 [U.S.C., tit. 29, §§ 31 to 44], and will observe and comply with the requirements of said act.

73-6-18. Vocational rehabilitation--Powers and duties of state board of education.--The state board of education is hereby designated as the state board for the purpose of this act, and is hereby empowered to do all things necessary to carry out the objects of such accepted legislation, and to cooperate with the federal government, the federal board of vocational education [federal security agency], or any other federal, state or private agency in the administration of this act.

73-6-19. Custody and disbursement of federal vocational rehabilitation funds.--The state treasurer is hereby designated as the receiver and custodian of funds appropriated by the federal and state governments to carry out the purposes hereof, the same to be withdrawn by warrants of the state auditor, supported by itemized vouchers of the said state board.

73-6-22. Support of federal vocational education, rehabilitation and child care program--Governor authorized to accept benefits of all federal acts.--The state of New Mexico is in sympathy with the efforts of the federal government to meet the special problems of economic and social adjustments through special subsidies or allotments of federal money and by the advice and guidance of specialist, research agencies and others, and the governor of the state of New Mexico is hereby authorized to accept for the state of New Mexico the benefits, privileges, and obligations of any federal act now in force, or which may be enacted by the Congress of the United States, relating to vocational education, vocational rehabilitation, and the care, training, and maintenance of underprivileged or handicapped children.

History: Laws 1931, ch. 54, § 1; 1941 Comp., § 55-509.

Compiler's Note.

Although this act (73-6-22 to 73-6-30) could be considered as

Title of Act.

An act relating to the further cooperation of the state of New Mexico with the federal government and others in the problems of vocational education, Compiler's Note. (continued) superseding 73-6-14 to 73-6-21, since it covers the fields of the provisions compiled therein, it is to be noted that the "state board for vocational education" referred to herein is nowhere created by statute under that name.

Title of Act. (continued) vocational rehabilitation, and the care, training, and maintenance of under-privileged or handicapped children.--Laws 1931, ch. 54.

73-6-23. Designation of state agencies for cooperation--State board of vocational education.--When the federal act provides for the specific agencies of cooperation within the state, the governor shall designate such agencies as the administrative agencies for carrying out the provisions of the federal act. When such state agencies are not specifically named in the federal act, the governor shall name the most appropriate agency within the state as the one for carrying out the purposes of the act, Provided, however, that when the federal board of vocational education /federal security agency/ is the federal agency of cooperation that the governor shall name the state board of vocational education to administer the work within the state.

73-6-24. Allotment of funds by cooperating agency.--Upon the acceptance of the provisions of any such federal act by the governor, the administrative agency named by the governor is hereby authorized to apportion from any state appropriation for work under its supervision, or from other sources of revenue or income, such amounts as may be necessary to carry on the work contemplated by such acceptance act.

73-6-25. Transfer of state funds authorized.--The state board of finance is hereby authorized to transfer from unexpended balances or state incomes not otherwise appropriated to such agency or agencies designated by the governor under the provisions of this act /73-6-22 to 73-6-30/ such sum, not in excess of ten thousand dollars ($10,000.00) annually, as may be necessary for carrying on such work, Provided that such allotments by the state board of finance shall not extend beyond June 30th of the next odd-numbered year following such acceptance by the governor.

73-6-26. Acceptance and disbursement of gifts by cooperating agency. --Any agency, director, or board named by the governor in pursuance of this act /73-6-22 to 73-6-30/ is hereby authorized to receive gifts and donations, and to dispense, disburse, and expend such gifts and donations in accordance with the instructions of the donor or donors thereof, Provided that the limitations of such gifts shall be in keeping with the general responsibilities of the board, directors, or agencies selected to administer same.

73-6-27. State board for vocational education designated to administer federal vocational education and rehabilitation program.--The state board for vocational education is hereby confirmed as the administrative agency for the federal vocational or Smith-Hughes Acts, the George-Reed Bill, and the National Rehabilitation Act, and of all amendments, additions, and continuations and enlargements thereof.

History: Laws 1931, ch. 54, § 6; 1941 Comp., § 55-514.

Compiler's Notes.

The Smith-Hughes Act, referred to in this section, may be found as U.S.C., tit. 20, §§ 11 to 15, 16 to [illegible] 28. The George-Reed Bill expired June 30, 1934 and the act is not now carried in the United States Code. The National Rehabilitation Act, now known as the "Vocational Rehabilitation Act," may be found as U.S.C., tit. 29, §§ 31 to 41.

Note that state board of education was previously designated the administrative agency for the Smith-Hughes and National Rehabilitation Acts by 73-6-15, 73-6-18 respectively.

73-6-28. Expenditure of state appropriation by state board of vocational education.--The state board for vocational education is hereby authorized to expend state appropriations for vocational education and vocational (or civilian) rehabilitation for all purposes for which federal money as provided for such acts may be expended, and in addition may use such portions thereof as may be necessary for purchase of equipment, the maintenance and physical restoration of those vocationally handicapped by accident or disease, or for any administrative or for any supervisory expense necessary for the better development of such work.

73-6-29. Cooperation of state and county health officers in rehabilitation work.--Upon request of the state board for vocational education, any state or county health officers shall examine free of charge any applicant for vocational rehabilitation, and shall report upon the extent and nature of the disability claimed, using such forms as may be provided by the said state board for vocational education, Provided that such applicant shall appear before such health officer at his regular office and during regular office hours, and Provided further that if such examination involve any X-Ray or laboratory analysis that the cost of same shall be prorated equally between the county of residence and the state board for vocational education.

73-6-30. Rehabilitation trainees--Admission to state colleges and universities--Remission of fees.--Upon the request of the state board for vocational education, all state institutions of higher learning shall accept for training as special students all approved rehabilitation trainees, and all matriculation fees, student activity fees, laboratory fees and registration fees for such students are hereby remitted, Provided that such students shall conform to the rules and regulations of the institutions.

FEDERAL AID TO EDUCATION

73-6-31. Educational grants in aid of by federal government--Acceptance--Reservation.--The state of New Mexico does hereby accept the provisions of each and every part of each and every title of any Act of the Congress of the United States which will afford or grant to accepting states federal aid to education, educational institutions or educational activities within the state; Provided, however, that any such Act of Congress shall reserve to the state and its local subdivisions the administration of schools, including institutions for the preparation of teachers, the control over the processes of education, the control and determination of curricula of the schools, the methods of instruction to be employed in them, the selection of personnel employed by the state and its agencies and local school jurisdictions, and insofar as consistent with the purposes for which funds may be made available under any such Act of Congress the determination of the best uses of the funds which may be granted under such act.

History: Laws 1939, ch. 162, § 1; 1941 Comp., § 55-518.

Title of Act.

An act accepting the provisions of each and every part and title of any Act of the Congress of the United States which will afford federal aid to education; granting power and authority to the state board of education, the superintendent of public instruction, the state treasurer and the director of the New Mexico library extension service to enter into such agreements and perform such duties and requirements as may be necessary to secure to the state of New Mexico all benefits which may be offered under any such Act of Congress.--Laws 1939, ch. 162.

Opinion of Attorney General.

Local administrative units of the public school system of New Mexico may legally accept federal aid for school building construction under Public Law 815, 81st Congress. 1951-52, No. 5530.

Any school giving instruction through the 12th grade, supported by public funds of the stateof New Mexico and managed by a body authorized by the statutes of New Mexico is a public school for the purpose of the Federal National Defense Act. 1959-60, No. 59-150.

The New Mexico Military Institute and the Northern New Mexico State School are secondary schools for the purpose of the Federal National Defense Act. 1959-60, No. 59-150.

73-6=32. Federal grant in aid funds--Custody--Deposit--Disbursement.--The state treasurer is the trustee for all funds apportioned to the state under any Act of Congress and he is directed to enter into agreements with, and to comply with the rules and regulations of, such agencies of the federal government as are necessary to procure for the state grants of federal aid to education. Any funds received under any Act of Congress shall be held by the state treasurer in special funds designated in accordance with the purposes of the grant made and shall be paid out by him only on warrant of the director of the department of finance and administration. Warrants shall be issued only upon voucher of the superintendent of public instruction for disbursements other than for rural library service. Disbursements made for rural library service shall be made only upon voucher issued by the state librarian.

73-6-33. State educational authorities for federal grant administration.--The superintendent of public instruction shall be the state educational authority to represent the state in administration of any funds received under any Act of Congress to authorize grants to states in aid of education other than grants for aid to rural library service and, as to such grants and funds received thereunder, the state librarian shall be the authority to represent the state in the administration of the funds.

73-6-34. Agencies for grants in aid--Powers--Duties.--Whenever, under any Act of the Congress of the United States, federal aid to education is made available to the states:

(1) The superintendent of public instruction shall:

(a) Enter into any agreements with the proper federal agency or agencies necessary to procure for this state all benefits which may be available under any such Act of Congress.

(b) Provide for and install an adequate system of auditing for the expenditure of funds to be received through the provisions of any such Act of Congress and to be apportioned to local school jurisdictions and teacher-training institutions, to educational agencies and institutions conducting adult education, and to the state educational authority for any other purpose or purposes.

(c) Provide for an adequate system of reports to be made to such superintendent from local school jurisdictions and teacher-preparation institutions, from educational agencies and institutions conducting adult education, and from such other jurisdictions, institutions and agencies as may be required.

(d) Develop and provide a plan of apportioning among local school jurisdictions any funds received for expenditure within such jurisdictions in such manner as to assist effectively in equalizing educational opportunities in public elementary and secondary schools within the state, such plan to conform as near as may be to any requirements of the Act of Congress and rules and regulations issued thereunder.

(e) Develop and provide a plan of apportioning any funds received for expenditures in eligible institutions based on recommendations of the board of educational finance.

(f) Develop and provide a plan for apportioning funds received for expenditure for adult education among public educational agencies and institutions in this state in such manner as will effectively contribute to the development of an economical, effective and comprehensive program of adult education.

(g) Make surveys and prepare and maintain state standards for the development of improved administrative units and attendance areas for the public elementary and secondary schools in anticipation of the availability of funds for the construction or alteration of buildings in connection with the public elementary and secondary schools, and for such purpose the superintendent may cooperate with any other public agency which he may designate.

(2) The director of the state library commission of this state is hereby authorized and directed to:

(a) Enter into any and all agreements with the proper federal agency or agencies necessary to procure for this state all benefits for rural or other library service which may be available under any such Act of Congress.

(b) Make and administer all plans which may be necessary to carry out any provisions of any such Act of Congress which offers aid to library service.

(c) Provide for and install an adequate system of auditing of the expenditure of funds to be received through the provisions of any such Act of Congress and to be apportioned to libraries and library services.

(d) Provide for an adequate system of reports to be made to the director of the state library commission from libraries and library services.

(e) Develop and provide a plan for apportioning any funds received for expenditure for library service which will provide for maintenance of a cooperative and integrated system of library service throughout the state, for suitable cooperative arrangements with school systems, cooperative agricultural extension services, and other appropriate agencies, and in such manner of apportioning as will effectively lessen inequalities of opportunity for library service.

73-6-35. Reports to federal agencies.--Whenever required by any Act of Congress authorizing federal aid to education or any rules or regulations issued pursuant thereo:

(1) The superintendent of public instruction shall make reports with respect to expenditure of funds received and progress of education generally, progress of adult education generally, or any other matters in the form and containing information required by the appropriate federal agencies; and

(2) The state librarian shall make reports with respect to expenditure of funds received and progress of library service in the form and containing information required by the appropriate federal agencies.

73-6-36. School facility construction grants in aid--Enforcement of labor standards.--In the event that the state shall accept any provision of any such Act of Congress which authorizes and grants aid in the construction of school facilities, the superintendent of public instruction shall, by contract or otherwise, enforce labor standards not less beneficial to employees on such projects than those required under sections 1 and 2 of the act of August 30, 1935 (49 Stat. 1011, ch. 825), as amended; Provided, that the Act of Congress authorizing such aid shall so require.

73-6-37. Official notice of acceptance of federal acts for education and library service.--The superintendent of public instruction shall transmit to the proper federal agency designated in any Act of Congress authorizing federal aid to education, official notice of acceptance of any parts and titles of the act and transmit therewith certified copies of this act and apportionment plans required in connection with the granting of any funds by any Act of Congress. In the case of aid to rural or other library service authorized in any Act of Congress, the official notice with the necessary certified copies as relate to library service shall be transmitted by the state librarian.

73-6-37.1. Superintendent of public instruction declared sole agency for administration of federal aid to education.--The superintendent of public instruction is hereby designated as the sole agency of the state of New Mexico for the administration of any and all plans which may be established or funds which may be available to the state, or for which the state may be eligible by virtue of any legislation enacted by the federal government, to authorize federal assistance to states and

73-6-37.1. (Continued) communities to enable them to increase public elementary and secondary school construction.

73-6-37.2. Promulgation of standards and procedures--Sale of obligations--Purposes for which payments may be used.--Said superintendent shall, as required or necessary for such eligibility, set forth and promulgate standards and procedures, conforming to federal requirements, for determining eligibility of local educational agencies for payment under such federal legislation, and the amounts thereof, and the need for the facilities to be constructed, which standards and procedures shall provide reasonable assurance that:

a. Such payments will be made only if, and to the extent, necessary to enable any local educational agency (1) to sell to the federal government or such agency as may be designated for such purpose obligations in the amounts needed by such agency to construct the school facilities with respect to which the payments are made, or (2) if such agency is legally unable to sell such obligations, to rent such facilities from a state school-building agency at rentals which the federal government or its designated agent determines to be comparable to those charged by state school-building agencies pursuant to agreement with the federal government or its designated agent; and,

b. Such payments will be made only with respect to the construction of school facilities needed to relieve or prevent extreme overcrowding, double shifts, or unhealthful or hazardous conditions.

History: Laws 1955, ch. 135, § 2.

73-6-37.3. Accounting, budgeting and other fiscal methods to be prescribed by superintendent.--Said superintendent shall provide and require such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of such federal plan or plans.

History: Laws 1955, ch. 135, § 3.

73-6-37.4. Reports.--Said superintendent shall provide for the making of such reports, in such form and containing such information as the federal government or its designated agent may from time to time reasonably require to carry out the provisions of applicable legislation, and for compliance with such provisions as may from time to time be necessary to assure the correctness and verification of such reports.

SCHOOL LUNCH PROGRAM

73-6-38. Establishment of school lunch programs--Definitions.--For the purpose of this act [73-6-38 to 73-6-43]:

(a) "School board" means the governing authorities of individual schools or group of schools legally empowered to enter into an operating agreement with the state board of education.

(b) "Sponsoring agency" means a school board which has authority to act for school or schools in which the program is to operate.

(c) "School" means a recognized school (other than private schools) of high grade or under which provides a graded course of instruction with certain standards required of children for the completion of each grade; credit toward advancement is given for class work completed; class attendance is compulsory; and, records thereof are regularly maintained.

(d) "School lunch program" means a program under which lunches are served by any school in this state on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

History: Laws 1947, ch. 98, § 1; 1941 Comp. Supp., § 55-525.

Title of Act.

An act to provide for the establishment, maintenance, operation and expansion of non-profit school lunch programs in the state of New Mexico.--Laws 1947, ch.98.

73-6-39. Expenditures of federal funds.--The state board of education is hereby authorized to accept and direct the disbursement of funds appropriated by any Act of Congress and apportioned to the state for use in connection with school lunch programs. The state board of education shall deposit all such funds received from the federal government in a special account known as the School Lunch Fund, with the treasurer of the state, who shall make disbursements by warrants upon the director of the state board of education.

73-6-40. Administration of program.--The state board of education may enter into such agreements with any agency of the federal government, prescribe such regulations, employ such personnel, and take such other action, as it may deem necessary to provide for the establishment, maintenance, operation and expansion of any school lunch program, and to direct the disbursement of federal and state funds in accordance with any applicable provisions of federal or state law. The state board of education shall give technical advice and assistance to any school board in connection with the establishment and operation of any school lunch program and shall assist in training personnel engaged in the operation of such program in which menu planning is an essential activity. For this purpose the state board of education shall employ qualified personnel requiring as a minimum completion of a standard course of instruction in home economics. The state department of education or any school board may accept any gift for use in connection with any school lunch program.

73-6-41. School boards--Disbursement.--Pursuant to any power of school boards to operate or provide for the operation of school lunch program in schools under their jurisdiction, school boards may use therefor funds disbursed to them under provisions of this act [73-6-38 to 73-6-43], gifts, and other funds received from sale of school lunches under such program.

73-6-42. Accounts, records, reports and operations.--The state board of education shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school boards. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five [5] years, as the state board of education may lawfully prescribe. The state board of education shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records and operations with respect to school lunch programs as may be necessary to determine whether its agreements with school boards and regulations made pursuant to this act [73-6-38 to 73-6-43] are being complied with, and to insure that school lunch programs are effectively administered.

73-6-43. Studies, appraisals and reports to governor.--The state board of education is hereby authorized, to the extent that funds are available for that purpose, and in cooperation with other appropriate

73-6-43. (continued)
agencies and organizations, to conduct studies of methods of improving and expanding school lunch programs and promoting nutritional education in the schools, to conduct appraisals of the nutritive benefits of school lunch programs, and to report its findings and recommendations from time to time to the governor as a basis for his recommendations to the state legislature.

73-7-67. Additional transportation expenditures--Purchase of equipment.--The board of county commissioners of each county may contract with bus line operators, from general funds of the county, and not out of any funds of taxes raised or levied for educational purposes, or appropriated in aid of the state public schools, for transportation for pupils attending schools other than the state public schools in compliance with the compulsory school attendance laws of the state, in the same manner and over the same routes of travel as is provided for the pupils attending the state public schools.

Local school boards of education, with the approval of the state transportation director and the chief, may set up a systematic program for the purchase of necessary transportation equipment, payable from the annual budget allocation for school transportation.

History: Law 1962 (S.S.), ch. 21, § 13.

73-12-2. Use of sectarian or denominational books and teaching of sectarian doctrine prohibited--Discharge--Revocation of certificate--Forfeiture of right to school moneys--Employement barred.--No teacher shall use any sectarian or denominational books in the schools or teach sectarian doctrine in the schools, and any teacher violating the provisions of this section shall be immediately discharged, his certificate to teach school revoked, and be forever barred from receiving any school moneys and employment in the public schools in the state. Provided, that this section shall not be construed to interfere with the use of school buildings for other purposes authorized by the county board after school hours.

History: Laws 1923, ch. 148, § 1102; C.S. 1929, § 120-1102; 1941 Comp., § 55-1102.

Opinions of Attorney General.

Before adopting text books, the state board should carefully review them to determine whether or not their use is prohibited by this section. 1943-44, No. 4572.

If members of religious orders are employed on an individual basis for teaching in tax supported schools, they are subject to the restriction that they shall not teach any sectarian doctrine while so employed. 1949-50, No. 5216.

1963-64, No. 63-106

Payment of Teachers.

Though earnings of teachers in religious orders is paid over to such orders the amount received is the same as that paid for other teachers and this is not the aid to religion or the church denounced by the federal and state Consitutions. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Religious Garb and Insignia.

The wearing of religious garb and insignia during the time the Religious are on duty as public school teachers by its very nature introduces sectarian religion into the school and must be barred. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Injunction Against Teaching.

Teachers who knowingly violated constitutional prohibitions against teaching of religious doctrine in the public schools may be forever barred from teaching in the public schools. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Judgment of Trial Court.

Supreme Court accepts judgment of trial court that certain of the teachers who disseminated religious pamphlets through the public schools should not be permanently barred from teaching in the public schools. Miller v. Cooper, 56 N.M. 355, 244 P. 2d 520.

Standing of Parties on Appeal.

Injunction against rental of church property for school purposes where school authorities did not have absolute control of such building, could not be appealed by the Religious who were parties to the suit since title to the property was in the Archbishop who was not a party to the suit, Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Dissemination of Religious Tracts.

Dissemination of religious literature in schools supported with public funds is improper. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Control of Schools.

Since a church cannot be permitted to operate a school system within the public school system, public school teachers must be under actual control and supervision of responsible school authorities. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Constitutionality.

This section is not so vague and uncertain as to deny teachers due process of law. Zellers v. Huff, 55 N.M. 501, 236 P. 2d 949.

Collateral References.

Schools and School Districts key 165, 167.

78 C.J.S. Schools and School Districts §§ 486, 487.

47 Am. Jur. 446, 456, Schools, §§ 208-215.

Dissmissal or rejection of public school teacher because of disloyalty, 27 A.L., R. 2d 487.

Services included in computing period of service for purpose of teachers' seniority, 2 A.L.R. 2d 1033.

Validity of governmental requirement of oath of allegiance or loyalty as applied to school teachers. 18 A.L.R. 2d 319.

Sectarianism in schools, 5 A.L.R. 866; 20 A.L.R. 1351; 31 A.L.R. 1125; 57 A.L.R. 195.

Law Reviews.

Catholicism and Public Schools in New Mexico, 3 Utah L. Rev. 467.

Public Funds for Private and Sectarian Schools, H.H. Punke, 10 Yearbook Sch. L. 108.

Religious Instruction in the Public School System, 47 Colum. L. Rev. 1346.

Schools and Civil Liberties--Pupils Refusing to Salute Flag or Sing National Anthem Statutory Exemption of Compulsory Religious Exercises, 22 Can B. Rev. 840.

73-12-3. Teaching without required certificate--Compensation forfeited.--Any person who teaches in the public schools without the required teacher's certificate shall forfeit all claim to compensation for services rendered.

History: Laws 1923, ch. 148, § 1103; C.S. 1929, § 120-1103; 1941 Comp., § 55-1103.

Opinion of Attorney General.

This section is intended to apply only to full time contract teachers and it would not prevent payment of a nominal sum for services rendered by practicing [practice] teachers, provided the school board has necessary funds in its budget for this purpose, 1953-54, No. 5835. 1957-58, No. 57-142; 1965-66, No. 65-46.

History: Laws 1953, ch. 29, § 1; 1941 Comp. Supp., § 55-1612; Laws 1965, ch. 262, § 1.

Title of Act.

An act relating to instruction for handicapped children; providing for instruction, a survey, and additional teachers for handicapped children; and amending sections 73-12-8 and 73-12-10 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1953, chapter 29, sections 1 and 3).--Laws 1965, ch. 262.

Cited in Vigil v. Barela, 71 N.M. 213, 377 P. 2d 515, 517.

Collateral References.

Schools and School Districts key 131.

78 C.J.S. Schools and School Districts § 161.

Unlicensed teacher's right to recover for services. 30 A.L.R.893; 118 A.L.R. 666.

Amendment.

The 1965 amendment designated the text of the former section as subsection A; substituted "administrative unit" and inserted "or trainable" after "educable" in the first sentence; inserted the present second, third and fourth sentences, added all of subsection B, and made minor changes in phraseology.

73-12-11. Employment of teachers and other employees with communicable diseases by public, parochial or private schools prohibited.--

A. No person who is afflicted with any communicable disease in a transmissible stage which has been designated by regulation of the state board of public health to be of any danger to the health of the students shall be employed in any public, parochial or private school in the state. The designation of such diseases shall be issued after due consultation with the state board of education.

B. All persons employed in such schools and school lunch program personnel and school bus drivers shall present to the governing authorities of the schools where employed, upon their initial employment and once each succeeding year thereafter, a certificate from a licensed physician to the effect that they are free from any communicable disease in a transmissible stage, which has been designated, by current regulation of the state board of public health issued after due consultation with the state board of education to be a danger to the health of the students.

C. The certificate is to follow the form and substance promulgated by the state board of public health and approved by the state board of education. The certificate must be secured annually, not more than ninety [90] calendar days prior to the opening of the yearly fall school term. Violation of the provisions of this section is a misdemeanor.

History: Laws 1923, ch. 148, § 1109; C.S. 1929, § 120-1109; Laws 1943, ch. 33, § 1; 1941 Comp., § 55-1108; Laws 1959, ch. 331, § 1.

Amendment.

The 1959 amendment materially enlarged and revised this section which prior to the amendment related only to the employment of teachers with

Title of Act.

An act relating to health certificates of teachers and other employees of public or private schools; amending section 78-12-11 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1923, chapter 148, section 1109, as amended.)--Laws 1959, ch. 331.

tuberculosis or syphilis and related only to the "schools of the state." For provisions prior to amendment, see parent volume.

Opinions of Attorney General.

1957-58, No. 58-180.

73-13-3. Compulsory attendance at public school--Age limits--Exemptions--Report of private or denominational school regarding nonattendance of enrollees.--Children who have passed their sixth birthday shall until they have reached their seventeenth birthday, unless a child has previously graduated from high school, attend public schools of the state for as many weeks as the public schools in the district in which such children reside shall be in session, except that children actually attending private or denominational schools maintaining courses of instruction approved by the state board of education, those physically or mentally unfit or incompetent, and those residing more than three (3) miles from public schoolhouses and to whom no free public means of conveyance to and from school are furnished shall be exempt from the provisions of this act. Any person serving in the capacity of superintendent of a private and denominational school, regardless of the name by which he or she may be designated, shall monthly report to the superintendent of the public schools in the city or county, as the case may be, wherein such private and denominational school is situated, the children enrolled in such private and denominational school who fail to attend the same.

History: Laws 1923, ch. 148, § 1203; C.S. 1929, § 120-1203; Laws 1947, ch. 28, § 1; 1941 Comp., § 55-1203.

Compiler's Note.

The reference to "this act" is to the School Code of 1923 (Laws 1923, ch. 148), the operative provisions of which are compiled throughout arts. 1 to 3, 5 to 15, 17, 18 and 20 of this chapter.

Title of Act.

An act relating to compulsory school attendance, amending section 55-1203, New Mexico 1941 Compilation, by clarifying the same.--Laws 1947, ch. 28.

Amendment.

Before the 1947 amendment which placed this section in its present form, it read as follows: "Children between the ages of six and sixteen years, both inclusive, shall attend public schools of the state for as many weeks as the public schools in the district in which such children reside shall be in session, except that children actually attending private or denominational schools maintaining courses of instruction approved by the state board of education, those physically or mentally unfit or incompetent and those residing more than three miles from public schoolhouses and to whom no free public means of conveyance to and from school are furnished shall be exempt from the provisions of this act. The governing authorities of private and denominational schools shall monthly report to the governing authorities of the public schools wherein such private and denominational schools are situated, the children enrolled in such private and denominational schools who fail to attend the same."

73-13-12. Weekly report regarding nonattendance--Instruction to grand jury regarding school attendance requirements.--Principals or teachers in charge of schools in this state shall weekly make a report in writing to the county school superintendent containing the names of all persons having control of children of school age who have failed to send such children to school as required herein. The presiding judge of the district court at each session shall instruct the grandy [grand] jury as to the substance of the Compulsory School Attendance Law.

History: Laws 1923, ch. 148, § 1212; C.S. 1929, § 120-1212; 1949 Comp., § 55-1212.

Compiler's Note.

The bracketed word "grand" was inserted by the compiler.

73-18-3. State text book division--State text book director--Duties --Bond--Rules and regulations for free book distribution.--There is hereby created as of July 1, 1941, within the state department of education, a division to be known as the "State Text Book Division," which shall be under the supervision of the state board of education. The state board of education shall appoint an administrator to be known as the "State Text Book Director" who shall have charge of said "state text book division" and administer the same according to the provisions of this act [73-18-3 to 73-18-6, 73-18-11, 73-18-12, 73-18-16 to 73-18-20]. The state board of education shall require said director to maintain a fidelity bond in an amount approved by the state board of education, and shall promulgate such rules and regulations not inconsistent with the provisions of this act for the handling and distribution of free text books to the school children of the state; Provided, however, such regulations shall provide that preference shall be given in the purchase and distribution of free text books to basal texts before supplementary readers and other materials.

History: Laws 1941, ch. 76, § 1; 1941 Comp., § 55-1703.

Title of Act.

An act relating to free text books; providing for a state text book division within the state department of education and the appointment of a state text book director; providing for the purchase and distribution of free text books within the state of New Mexico; making an appropriation therefor; repealing chapter 112 of the New Mexico Session Laws of 1933, except sections 5 and 6 thereof, and chapter 83 of the New Mexico Session Laws of 1935 and all acts and parts of acts in conflict herewith; and declaring an emergency.--Laws 1941, ch. 76.

Opinions of Attorney General.

Title to these text books vests in the state of New Mexico and the counties and individual schools which subsequently receive them serve as bailees for the state, 1941-42, No. 4033.

The law contemplates that text books should be made available to all children attending school within the state including those in privately operated and denominational schools. 1949-50, No. 5240.

The Dixon case does not require over-ruling opinion issued in August, 1949 that state board of education by virtue of statute is under duty to furnish free text books to pupils attending non-public schools in New Mexico. 1951-52, No. 5453.

Cross-Reference.

Loaning of text books, 73-1-7.

73-18-6. Apportionment of text book fund credits for school units--Requisitions--Rules and regulations--Approval of variations--Disposition of credit balances.--From the annual appropriation for the "free text book fund" above created, there shall be set up as a credit to the school units hereinafter mentioned that proportion of said $215,000.00 which the total average daily attendance of each unit bears to the total average daily attendance in the state for the previous year, and the governing authority may requisition such books as may be necessary against such credits from time to time with the approval of the state text book director in accrodance with the rules and regulations of the state board of education, Provided, however, that any material variation from any list of books contained in the detailed estimates of text books by the various school units shall be submitted to the superintendent of public instruction for approval. Any balance remaining to the credit of any governing authority of the school units above mentioned at the end of the school year shall not revert but shall remain available for requisition in a subsequent year.

STATE OF NEW MEXICO
Department of Justice
Office of the Attorney General

Santa Fe
April 25th 1955

Mrs. Georgia L. Lusk
Superintendent of Public Instruction
State Capitol Building
Santa Fe, New Mexico

Dear Mrs. Lusk:

This will acknowledge receipt of your letter of April 12, 1955 in which you inquire as to who bears the responsibility for the transportation of non-public school children under the terms of Senate Bill No. 177, being Chapter 273, Laws of 1955. The pertinent portion of this bill which amends Section 73-7-36 of the 1953 Compilation, provides as follows:

> "Provided further, that each county may furnish transportation from general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the state public schools, to supplement the present school bus transportation system for aid and benefit of all pupils attending school in compliance with the compulsory school attendance laws of the state of New Mexico, upon the same terms and in the same manner and over the same routes of travel as is provided for pupils attending the state public schools.
>
> "The board of county commissioners of each county may contract with the busline operators for the transportation of pupils attending schools other than the state public schools, in compliance with the compulsory school attendance laws of the state of New Mexico in the same manner and over the same routes of travel as is provided for the pupils attending the state public schools; such transportation to be paid for with funds appropriated by each county for that purpose from the general funds of said county."

It is clear, we believe, from the above quoted matter that the entire responsibility for the transportation of these children rests upon the county commissioners of each county.

The financial burden is to be born by the genral fund of the county, and specifically not from funds raised or levied for educational purposes. This is a matter which is completely apart from your jurisdiction and entirely within the province of the county commissioners.

Very truly yours,

Richard H. Robinson
Attorney General

By: W. R. Kegel, Assistant Attorney General

Attorney General
Opinion No. 5240

August 15, 1949

Mr. Charles L. Rose
Superintendent of Public Instruction
Department of Education
Santa Fe, New Mexico

Dear Mr. Rose:

I am writing in reply to your inquiry of July 20, 1949, regarding the distribution of free text books to children attending non-public schools. It is my opinion that the letter of this office dated May 17, 1949 properly disposes of the question. However, in order to avoid any ambiguity, I am rendering the following supplementary opinion:

Judge Hensley, in his Conclusions of Law, prohibited the furnishing of free text books to schools other than tax supported schools for the reason that such distribution of test books was in violation of Section 14, Article 9 and Section 3, Article 12 of the Constitution of the State of New Mexico. The difficulty as I see it is that Judge Hensley failed to take into consideration the provisions of the free text book law of the State of New Mexico set forth in Sections 55-1701 through 55-1720 of the New Mexico 1941 Compilation. If Judge Hensley is right in determining the question solely on the basis of the New Mexico Constitution, he must inferentially have held the free text book law of the State of New Mexico unconstitutional. It is believed, however, that the question of the authority of the school board to issue free text books to non-public schools can be determined independently of Judge Hensley's decision.

It should first be especially noted that Judge Hensley's opinion does not prohibit the distribution of text books to children, but to schools. The United States Supreme Court and numerous state supreme courts have consistently held that the distribution of free text books to the children attending private schools serves a public function. The best exposition of this proposition is contained in the language of the case of Cochran v. Louisiana State Board of Education, 281 U. S. 370, at page 374, which stated as follows:

> "The contention of the appellant under the 14th Amendment is that taxation for the purchase of school books constituted a taking of private property for a private purpose. Citizens' Sav. and L. Assoc. v. Topeka, 20 Wall. 655, 22 L. ed. 455. The purpose is said to be to aid private, religious, sectarian and other schools not embraced in the public educational system of the state by furnishing textbooks free to the children attending such private schools. The operation and effect of the legislation is question were described by the supreme court of the state as follows (168 La. p. 1020, 67 A. L. R. 1183, 123 So. 655):

> "'One may scan the acts in vain to ascertain where any money is appropriated for the purchase of school books for the use of any church, private, sectarian or even public school. The appropriations were made for the specific purpose of purchasing schools books for the use of the school children of the state, free of cost to them. It was for their benefit and the resulting benefit to the state that the appropriations were made. True these children attend some schools, public or private, the latter, sectarian or nonsectarian, and that the books are to be furnished them for their use, free of cost, whichever they attend. The schools, however, are not the beneficiaries of these appropriations. They obtain nothing from them, nor are they relieved of a single obligation because of them. The school children and the state alone are the beneficiaries. It is also true that the sectarian schools, which some of the children attend, instruct their pupils in religion, and books are used for that purpose, but one may search diligently the acts, though without result, in an effort to find anything to the effect that it is the purpose of the state to furnish religious books for the use of such children....What the statutes contemplate is that the same books that are furnished children attending public schools shall be furnished children attending private schools. This is the only practical way of interpreting and executing the statutes, and this is what the state board of education is doing. Among these books, naturally, none is to be expected adapted to religious instruction."
>
> "The court also stated, although the point is not of importance in relation to the Federal question, that it was 'only the use of the books that is granted to the children, or in other words, the books are lent to them.'
>
> "Viewing the statute as having the effect this attributed to it, we can not doubt that the taxing power of the state is exerted for a public purpose, The legislation does not segregate private schools or their pupils, as its beneficiaries, or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its method, comprehensive. Individual interests are aided only as the common interest is safeguarded."

This proposition has been reaffirmed again by the United States Supreme Court in the case of Everson v. Board of Education, 330 U.S., page 7, where, in passing on an analogous situation involving free bus transportation for children attending parochial schools, the court stated;

> "It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose. Cochran v. Louisiana State Bd. of Edu. 281 US 370, 74 L ed 913, 50 S Ct 355; Holmes, J., in Interstate

> Consol. Street R. Co. v. Massachusetts, 207 US 79, 87, 52 L ed 111, 115, 115, 28 S Ct. 26, 12 Ann Cas 555. See Opinion of Cooley, J., in Stuart v. School Dist. 30 Mich. 69 (1874). The same thing is no less true of legislation to reimburse needy parents, or all parents, for payment of the fares of their children so that they can ride in public busses to and from schools rather than run the risk of traffic and other hazards incident to walking or "hitchhiking." See Barbier v. Connolly, supra (113 U.S. At 31, 28 L ed 924, 5 S Ct 357). See also cases collected 63 ALR 413; 118 ALR 806. Nor does it follow that a law has a private rather than a public purpose because it provides that tax-raised funds will be paid to treimburse individuals on account of money spent by them in a way which furthers a public program. See Carmichael v. Southern Coal and Coke Co. 301 U. S. 495, 518,81 L ed 1245, 1258, 57 S Ct 868, 109 ALR 1327. Subsidies and loans to individuals such as farmers and home owners, and to privately owned transportation systems, as well as many other kinds of businesses, have been commonplace practices in our state and national history."

See also cases collected in 67 A.L.R. 1196 and 17 A.L.R. 299.

Approaching the problem, them independently of Judge Hensley's decision, and having determined by the decisions of the U. S. Supreme Court that the assistance given to children attending private schools by means of free text books is in the furtherance of the public policy, the question reduces itself solely to an interpretation of the free text book act in Section 55-1701 et seq of the New Mexico 1941 Compilation. Of the 1941 Compilation, Sec. 55-105 (e). Chapter 119, Laws of 1931, in defining the powers of the State Board of Education, provides:

> "To furnish approved books to private or parochial schools, or to pupils or parents at cost, plus the cost of handling, such cost to be determined by the State Board of Education."

It will be noted particularly that this law was enacted in 1931.

Sec. 55-1703 of the 1941 Compilation, being Chapter 76 of the Laws of 1941 set up a free text book division within the State Department of Education. In Section 1 of Chapter 76 of the Laws of 1941 in pertinent part provides:

> "The State Board of Education shall require said Director to maintain a fidelity bond in an amount approved by the State Board of Education, and shall promulgate such rules and regulations not inconsistent with the provisions of this Act for the handling and distribution of free textbooks to the school children of the State:"

Sec. 5 of Chapter 76 of the Laws of 1941 in pertinent part provides:

> "At the end of the school year every county school superintendent, the administrative head of each municipal and independent school

> district and of every other educational institution, private or public, shall make an inventory of all free textbooks on hand, and a detailed estimate of the textbooks needed for the succeeding year, together with such other information, and on such forms, as the State Department of Education may by rule require."

Sec. 6 of Chapter 76 of the Laws of 1941 in pertinent part provides:

> "From such information the State Superintendent of Public Instruction shall make a detailed budget for each county, municipal or independent school district, and for all other educational institutions, public or private, the pupils of which are entitled to receive free textbooks, which shall include cost and freight of books, and no requisition for books shall be made by such school units in excess of such budget."

Section 9 of Chapter 76 of the Laws of 1941 in pertinent part provides:

> "Free textbooks shall hereafter be distributed to the county, municipal and independent school boards of education in this State and to the superintendent or other officials in charge of other institutions the students of which are entitled to receive free textbooks by the publishers of such textbooks with which the State Board of Education has made or shall hereafter make contracts covering the furnishing of such textbooks, through such agencies as said publishers may select."

Sec. 12 of Chapter 76 of the Laws of 1941 provides:

> "That Chapter 112 of the New Mexico Session Laws of 1933, except Sections 5 and 6 thereof, and Chapter 83 of the New Mexico Session Laws of 1935, and all acts and parts of acts in conflict herewith are hereby repealed."

Section 5 of Chapter 12 of the Laws of 1933, which was reincorporated by reference in Chapter 76 f of the Laws of 1941, provides in part as follows:

> "Said free text books shall be distributed to the children of this state attending schools in this state, and the parents or guardians of such children shall be responsible for the loss, damage or destruction of books issued to their children or wards, and no books shall be issued to the child or ward of any parent or guardian who refuses to pay for such book damaged, lost or destroyed****."

It is believed that the legislative continuity above outlined is self-explanatory. Chapter 76 of the Laws of 1941 specifically repeals all acts and parts of acts in conflict therewith. The language contained in Chapter 112 of the Laws of 1933 and reincorporated in Chapter 76 of the Laws of 1941 specifically makes free text books available "to the children of this state attending schools in this state."

That there is no ambiguity in this legislation and that it was clearly the plan in the enactment of Chapter 76 of the Laws of 1941 to make text books available to all children attending schools in the state, regardless of the denominational or private interests of the operating schools under the supervision of the State Board of Education, is particularly made clear from the fact that the number of children in the private or parochial schools were to be accounted for in determining budgets for the text book funds for the ensuing year.

This office is in a position to render the legal advice heretofore given, but is in no position to advise as to the mechanics of distribution. Sec. 55-1703 of the 1941 Compilation confers on the director of the State Text Book Division the authority to issue the necessary rules and regulations for the handling and distribution of the text books to the school children. The rules and regulations which may be necessary to effectuate the distribution of these books is an administration and mechanical problem!

Trusting the foregoing sufficiently answers your inquiry, I remain

Very truly yours,

JOE L. MARTINEZ
ATTORNEY GENERAL

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P

Y

February 13, 1952

Raymond Huff, Chairman
and
Tom Wiley, Secretary
State Board of Education
Santa Fe, New Mexico

Gentlemen:

Recently you requested an opinion from this office concerning the legality of transportation of children to private schools. With the enactment of the amendment to Section 55-634 NMSA, 58-4-7, (Ch. 65, Laws of 1951) in view, you ask whether the transportation of children to private schools would be legal under certain regulations, which you outline.

The amendment to Section 55-634 which concerns us here reads as follows:

> "Provided further, that each county may furnish transportation from general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the State public schools, to supplement the present school bus transportation system for the aid and benefit of all pupils attending schools in compliance with the compulsory school attendance laws of the State of New Mexico, upon the same terms and in the same manner and over the same routes of travel as is provided for pupils attending the State public schools."

The first of the regulations which you outline reads as follows:

1. "That non-public school children may ride the public school bus in operation in your school district over a regularly established bus route, provided there is sufficient room in the bus for them to ride and not over-crowd public school pupils."

This type of transportation is permissible only if the county defrays, out of its general funds, the additional expense occasioned by the transportation of non-public pupils, attending such schools by virtue of the compulsory school attendance law. This view is in conformity with Section 55-634 NMSA, as amended, (see supra). With respect to parochial school children, such transportation without the county defraying the additional cost would, in my opinion, be violative of paragraph 2 under County II of the decree entered by Judge Hensley in the case of Zellers, et. al. v. Huff, et. al. This portion of the decree states:

> "That the defendants named and designated in paragraph 12 of this judgment relating to the first cause of action be and each of them are hereby permanently enjoined and restrained from permitting, allowing or consenting to the transportation furnished by the State of New Mexico in connection with the furnishing of school bus transportation."

The second regulation you mention is as follows:

2. "If a double-back is necessary or an extension of the present bus route be made to accommodate these pupils, the cost of this operation will be paid from the county general fund and not from school monies."

This regulation, as it pertains to "double-backs," is in my opinion entirely proper and in conformity with Section 55-634 and Judge Hensley's decree. However, in my further opinion, Section 55-634 precludes the extension of an established bus route to accommodate private school pupils, even if the county should provide for the additional cost occasioned thereby.

The third regulation you outline provides:

3. "If an extra bus is put on by the private school, this bus must conform to all bus standards and specifications. The drivers of these vehicles shall meet all regulations governing school transportation."

This regulation is likewise proper and conforms to both Section 55-634, as amended, and the spirit of Section 55-1801 NMSA.

The fourth of your regulations reads as follows:

4. "Where non-public school pupils ride public school buses they shall be subject to the same supervision and regulations as the public school pupils."

This regulation likewise properly conforms to the intendment of Section 55-634.

The fifth and last of your proposed regulations states as follows:

5. "Where the bus capacity will not permit the transportation of non-public school pupils, and the county general fund is not sufficient to take care of increased transportation due to these pupils riding, said pupils may not receive transportation service."

Concerning this regulation, as was stated in the comment on Regulation No. 1, no child may be transported to a private school on a public school bus unless the county defrays the additional cost occasioned thereby. Therefore, in all cases where the county does not defray, or provide for, the cost of the transportation of these pupils, they shall not receive transportation service.

I trust that this opinion answers your questions on this subject.

Very truly yours,

Joe L. Martinez
Attorney General

COPY

OPINION
OF
BOSTON WITT
Attorney General

No. 65-191

October 7, 1965

BY: Oliver E. Payne
Deputy Attorney General

TO: Mr. H. J. Torres, President
Board of Education
P. O. Box 158
Bernalillo, New Mexico

FACTS:

The Bernalillo School System owns and operates its own school bus fleet of 23 buses. It does not have any private bus contractor in its employ.

QUESTION:

If the seating space is available on a school-owned bus, is it permissible to allow parochial or private school children to ride this bus to the parochial or private school they attend when the county commission has indicated willingness to reimburse the public school system for the cost of transporting the parochial or private school children involved?

CONCLUSION:

Yes, if there is no extension of the established route.

ANALYSIS:

The statutory provision here involved is Section 73-7-67, N.M.S.A., 1953 Compilation (p.s.) which reads in pertinent part as follows:

> "The board of county commissioners of each county may contract with bus line operators, from general funds of the county, and not out of any funds or taxes raised or levied for educational purposes, or appropriated in aid of the state public schools, for transportation for pupils attending schools other than the state public schools, in compliance with the compulsory school attendance laws of the state, in the same manner and over the same routes of travel as is provded for the pupils attending the state public schools." (Emphasis added.)

This 1962 statute is not significantly different from a provision that was formerly incorporated in Section 73-7-36 by a 1951 amendment. The proviso then read as follows:

> "Provided further, that each county may furnish transportation from general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the state public schools, to supplement the present school bus transportation system for the aid and benefit of all pupils attending school in compliance with the compulsory school attendance laws of the state of New Mexico, upon the same terms and in the same manner and over the same routes of travel as is provided for pupils attending the state public schools." (Emphasis added.)

Immediately upon passage of this 1951 legislation there was an inquiry to this office concerning its constitutionality. This office held that because of the source of the moneys, i.e., county general funds, there was no violation of Section 3, Article 12 of the State Constitution. Opinion No. 5339 (1951-1952). We also found no violation of the United States constitution in view of the decision in Everson v. Board of Education. 220 U.S. 1, and cases cited therein.

In Opinion No. 5495 (1951-1952) this office again stated that it found no violation of any constitutional provisions, but we did point out that the statute itself "precludes the extension of an established bus route to accommodate private school pupils, even if the county should provide for the additional cost occasioned thereby."

The phraseology of the 1962 statute being identical ("Over the same routes of travel"), we are still of the opinion that transportation of this category of pupils must be over the regularly established routes. It cannot be extended to actually deliver these students to the non-public school. They must depart from the bus at a point on the established route which is nearest their particular school.

Since your school system has its own fleet of school buses, and thus does not have to contract for the transportation of students, it would seem that the county's contribution would be rather nominal --this because while in a private contract the amount agreed upon might be based in part on the number of students transported, the only additional costs in your system would be for operation and maintenance.

It seems obvious that if the county can contract with a private party to transport students to a non-public school, it can also contract with the school system for the same service.

BOSTON E. WITT
Attorney General

BY:

Oliver E. Payne
Deputy Attorney General

OEP:ebo:lcv

ADDITIONAL OPINIONS OF ATTORNEY GENERAL

Attorney General Opinion No. 5240

The law contemplates that text books should be made available to all children attending school within the state including those in privately operated and denominational schools. 1949-50.

Attorney General Opinion No. 5453

The Dixon case does not require over-ruling opinion issued in August, 1949 that state board of education by virtue of statute is under duty to furnish free text books to pupils attending non-public schools in New Mexico, 1951-52.

October 7, 1966

Mr. Boston E. Witt
Attorney General
State of New Mexico
Santa Fe, New Mexico

Dear Mr. Witt:

Please consider this a formal request for opinions as to whether state statutes are being violated on the following questions concerning the use of funds allocated to the State of New Mexico through the State Department of Education for Title I of the Elementary and Secondary Education Act.

Question No. 1:

> May Title I funds under the Elementary and Secondary Education Act be used to transport private school children?

Question No. 2:

> May Title I funds under the Elementary and Secondary Education Act be used to place equipment on a loan basis on the premises of a private school?

Question No. 3:

> May Title I funds under the Elementary and Secondary Education Act be used to provide special services by sending an employee to the premises of the private schools?

Question No. 4:

> May Title I funds under the Elementary and Secondary Education Act be used to provide in-service training to private school teachers who also have specific Title I assignments?

Question No. 5:

> May Title I funds under the Elementary and Secondary Education Act be used to provide opportunities for dual enrollment?

Question No. 6:

May Title I funds under the Elementary and Secondary Education Act be used to provide special services to private school children in public school facilities (without enrollment) in the public school?

Question No. 7:

May Title I funds under the Elementary and Secondary Education Act be used to permit work study programs in private schools?

Yours sincerely,

Mildred Fitzpatrick
Chairman, Title I, ESEA Services Area

MF:ejm

cc: Mr. E. P. Ripley

Boston E. Witt
Attorney General

Oliver E. Payne
Deputy Attorney General

State of New Mexico
OFFICE OF THE ATTORNEY GENERAL
Department of Justice
Santa Fe

November 17, 1966

Dr. Mildred Fitzpatrick
Chairman, Title I,
ESEA Services Area
Department of Education
Capitol Building
Santa Fe, New Mexico

Dear Doctor Fitzpatrick:

In your letter of October 7, 1966 you ask seven questions concerning expenditures of Title I funds. These questions can be answered as a group without referring to each individual question. Two provisions of the New Mexico Constitution and one New Mexico Statute must be considered in answering your questions. Article XII, Section 3 of the New Mexico Constitution provides:

> The schools, colleges, universities and other educational institutions provided for by this Constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.

Article IX, Section 14 provides:

> Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons.

Section 73-12-2, N.M.S.A., 1953 Compilation provides:

> No teacher shall use any sectarian or denominational books in the schools or teach sectarian doctrine in the schools, and any teacher violating the provisions of this section shall be immediately discharged, his certificate to teach school revoked, and be forever barred from receiving any school moneys and employment in the public schools in the state. Provided, that this section shall not be construed to interfere with the use of school buildings for other purposes authorized by the county board after school hours.

It has been explained to us that Title I funds are appropriated to the various states upon the approval of an acceptable state program. These funds are commingled with state funds but they are only spent for Title I purposes. In other words it can be determined by reference to the Title I plan, the project of the individual school district and the Title I line item and through audit that Title I funds are only spent for Title I purposes and that state funds that come from state appropriations are not spent for Title I purposes. Thus, we are assured that no state funds can or will be spent for any of the purposes outlined in your letter. Under these circumstances it is apparent that Article IX, Section 14, of the New Mexico Constitution does not prohibit the expenditure of Title I funds for the purposes outlined in your letter. By the same token it is also apparent that Article XII, Section 3 of the New Mexico Constitution does not prohibit the expenditure of Title I funds for these purposes, inasmuch as that provision only relates to state funds. As far as Section 72-12-2 is concerned, we are convinced that it does not prohibit the expenditure of Title I funds for the purposes outlined in the program which we have before us so long as no sectarian books are used in the public schools and so far as no sectarian doctrines are taught in the public schools. In this regard we call your attention to the case of Zellers vs. Huff, 55 N.M. 501, 236 P. 2d 949.

You should be cautioned that this opinion is limited to the legality of expenditures of Title I funds under New Mexico law. Nothing in this opinion should be construed as being an expression of our opinion of the legality of the expenditure of Title I funds under the U. S. Constitution or under federal law.

Yours truly,

/s/
JOEL M. CARSON
ASSISTANT ATTORNEY GENERAL

JMC/ms

STATE OF NEW MEXICO
DEPARTMENT OF EDUCATION
CAPITOL BUILDING
SANTA FE

LEONARD J. DE LAYO
SUPERINTENDENT OF PUBLIC INSTRUCTION

October 17, 1966

Weldon Perrin
Director of Finance
Title I
E.S.E.A. Services

Dear Mr. Perrin:

Reference is made to your inquiry October 7, 1966. You inquire as to whether an addendum can be attached to a contract with a teacher employed with Title I funds to the effect that the Tenure Act will not be adhered to in case Title I funds are not available after tenure has been acquired.

C Section 13-12-14 N.M.S.A. (p.s.) requires approval by the C
State Board of the form of employment contracts for certi-
O fied school personnel. As you are aware, Section 73-6-32 O
to 73-6-37.1 N.M.S.A. (p.s.) authorize the Superintendent
P of Public Instruction to receive and administer federal grants P
in aid in accordance with the terms of the grants. Hence,
Y we start with the proposition that express statutory authority Y
exists with the appointment of certified personnel to perform
educational services in accordance with the terms of these
grants.

It is my understanding that such personnel are not only certified but also are employed under contract by the local administrative units and are under the direct control of such units in the performance of their duties.

In view of the foregoing, I do not see how the source of funds used to pay this type of personnel can constitute a valid ground for eliminating them from the benefits of the Teachers Tenure Act ie Section 73-12-13 N.M.S.A. (p.s.).

Yours truly,

/s/ E. P. Ripley, Attorney
Legal Division

EPR:af
cc: LaMoine Langston

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education
Washington, D. C. 20202

Bureau of Elementary and
Secondary Education

October 12, 1966

COPY

COPY

Dr. Mildred Fitzpatrick
Chairman, Title I, ESEA
State Department of Education
Santa Fe, New Mexico 87501

Dear Dr. Fitzpatrick:

This is in reply to your letter of September 30, 1966, in which you requested a clarification as to how teacher aides may be employed in parochial schools under Title I of ESEA.

When a Title I project provides for participation therein by children in non-public schools and when it is appropriate to provide for such participation on non-public school property, public employees may be used for that purpose. This would include not only teachers, but also aides, who are necessary for effectively carrying out an otherwise proper Title I project.

However, the use of such an aide to provide general assistance to a non-public school teacher would constitute aid to the non-public school, which is not authorized by Title I. This would be true even if the assistance being rendered was intended to free the regular non-public school teacher to perform functions with respect to a proper Title I project. Aside from the remoteness of any connection between the services of the aide and the Title I project itself, the aide himself would thereby become, in effect, a non-public school employee under the supervision of the non-public school teacher that he is assisting. Accordingly, the payment of his salary or wages would be expressly prohibited by the terms of Section 116.19(d) of the Regulations.

Sincerely yours,

John F. Hughes, Director
Division of Compensatory Education

APPENDIX - J

Fiscal Management

FOREWORD

Title I of the Elementary and Secondary Education Act of 1965 authorizes Federal support to local public educational agencies for special educational programs for educationally deprived children in attendance areas where low-income families are concentrated.

Due to the fact that Guidelines have been handed down to us from the U.S. Office of Education, we are attempting to help the schools of New Mexico organize materials in such a manner that will be acceptable for reporting to the U.S. Office of Education in Washington.

In this booklet, we have tried to outline our responsibilities concerning audits, record keeping, and reporting in general.

Weldon Perrin
Specialist, Program Operations
Title I, ESEA
State Department of Education

.115

EXHIBIT NUMBER A

It is required that the local agency will maintain on a continuing basis a Report of Local Expenditures.

This record can be maintained manually or on a typewriter. This form is to be sent to the State Agency with the Monthly Budget Report.

Important Items to Remember Are:

1. Entries must be made daily as the transactions occur.
2. A separate record should be maintained for each numbered project.

Should a school system already have an accounting system on an obligation basis, this form may be used as a subsidiary project journal.

The most important item to remember is that all the information contained on this form must be recorded by the school district.

These forms are available in bulk by writing to Mr. Weldon Perrin, State Department of Education, Santa Fe, New Mexico.

It is our suggestion that the Local School District keep a master copy on file at all times and at the end of the reporting period, that a zerox copy be made and sent to the State.

This report is due monthly.

THIS FORM IS DUE AT THE END OF EACH
MONTH AND NO LATER THAN THE 10TH OF
THE FOLLOWING MONTH.

PAGE_____ OF___

MAIL TO: Weldon Perrin
Title I, ESEA
State Department of Education
Santa Fe, New Mexico

RECORD AND REPORT OF LOCAL EXPENDITURES

Local Agency________________________ State______________

Federal Program__________ Project No.__________ Date Approved__________ Amount Approved__________

Obligation Reference

DATE (1)	NUMBER* (2)	ITEM OR NAME OF VENDOR (3)	LINE ITEM (4)	AMOUNT OBLIGATED (5)	AMOUNT PAID (6)	DATE PAID OR CANCELLED (7)	CHECK NUMBER (8)	AVAILABLE BALANCE (9)
9/ 3/66	497	Standard School Sup.	240.1	$ 647.50				$4,352.50
9/15/66	736	School Equipment Co.	1230	2,500.00				1,852.50
9/30/66	Vo.#	September Payroll	**		$ 300.00	9/30/66		1,552.50
10/15/66	740	Standard School Sup.	240.1	150.00				1,402.50
10/18/66	497	Standard School Sup.	240.1	(647.50)	640.00	10/18/66	749	1,410.00
10/30/66		October Payroll	**		450.00	10/31/66	738-40	960.00
10/31/66	736	School Equipment Co.	1230 c	(2,500.00)	-0-	10/31/66		3,460.00
		TOTALS		$ 150.00	$1,390.00			$3,460.00

NOTE: This report shows that the total disbursements to date were	$1,390.00
Unpaid obligations, for 1 outstanding purchase order	150.00
Total Funds, used or obligated	$1,540.00
Balance still available for new payrolls or purchase order	3,460.00
Total originally approved	$5,000.00

*Requisition, Purchase Order, invoice.
**No line item required for payroll.

EXHIBIT NUMBER B

It is required that the local agency submit to the State Education Agency a Quarterly Report of Disbursements and Estimated Requirements for Federal Funds.

The forms have already been transmitted to your office for the entire year.

This form will assist the State in controlling the flow of Federal funds so as to insure their proper use, permit the State to maintain proper records for each project and account for the rate of expenditure of funds under Approved projects.

These forms are to be mailed to Mr. Weldon Perrin, at the end of each quarter.

Note that if Part I line #3 is greater than Part II line #1 that no funds will be distributed to the Local School District until the following month.

The total of column 5 of this report will include only figures taken from proper documentation, i.e., purchase order, requisition, invoice, or other written commitments.

Should you find it necessary to send in an amended request during the quarter, please feel free to do so.

QUARTERLY DISBURSEMENT AND ESTIMATED REQUIREMENT OF FEDERAL FUNDS BY LOCAL EDUCATIONAL AGENCY

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965-TITLE I

INSTRUCTIONS: PLEASE COMPLETE THIS REPORT FOR EACH PROJECT. SUBMIT ORIGINAL AND TWO COPIES NO LATER THAN 10 DAYS AFTER EACH QUARTER TO THE STATE EDUCATIONAL AGENCY.

PROJECT NO.	STATE SERIAL NOS.	FISCAL YEAR PROJECT APPROVED
1	00000	1966-67

PART I - DISBURSEMENTS FOR PAST QUARTER ENDING: December 31, 1966

ITEMS	AMOUNT OF DISBURSEMENTS
1. Disbursements of Federal cash previously reported	$ -0-
2. Disbursements of Federal cash for reporting quarter	10,000
3. Federal cash on hand at end of quarter	10,000
4. (Federal cash accounted for) TOTAL -	$ 20,000

PART II - ESTIMATED REQUIREMENTS FOR NEXT QUARTER ENDING: March 31, 1967

MONTH FEDERAL CASH IS NEEDED	ESTIMATED AMOUNT NEEDED
1. Enter Month January	$ 7,000
2. Enter Month February	8,000
3. Enter Month March	10,000
4. (Add 1, 2 and 3) TOTAL -	25,000
Less: 5. Federal cash on hand at end of quarter (Same as Part 1, Item 3)	10,000
6. Net amount of Federal cash required (Item 4 minus 5)	$ 15,000

Remarks:

SAMPLE

LOCAL EDUCATIONAL AGENCY

U NO WHO Mun. School District #1000

SUBMITTED BY (Type name and title)

Finance Officer

SIGNATURE OF REPORTING OFFICIAL

DATE 1/15/66

EXHIBIT NUMBER C

EXHIBIT NUMBER C IS YOUR QUARTERLY BUDGET REPORT FOR PUBLIC LAW 89-10 TITLE I, ESEA.

This report is to be submitted on or before the 10th of each month following the reporting quarter.

In the first column under Expenditure Classifications note that you have two categories under each numbered heading. In no case will salaries be encumbered.

In the first column of your Monthly Budget Report entitled, Expenditure Classifications, the figure inserted in "Salary" in each category that is 100, 200, 300, etc., should be the amount actually paid and charged to the salary line items in each category from the beginning date of your project to the date of this Monthly Budget Report. Do not encumber salaries. All other cash expenditures and encumbrances from the beginning of your project to date, should be listed under "Other".

The total of "Salaries" and "Other" in each category should equal the totals as shown in each category in columns 6 and 8.

The "Other" category is to be encumbered as usual.

In Column Number 1, the figures here will be the figures from your approved Public School Budget request, column #4.

In Column Number 2, any transfers that you have had approved to date must be reflected here, plus any amendments that you have had approved for a project. Please mark amendments with an * so that it will be possible to balance your column totals.

In Column Number 3, list any transfers from the amount to date.

In Column Number 4, you will list the total in Column Number 1, plus the total in Column Number 2, minus the total in Column No. 3.

In Column Number 5, enter the amount expended this month in each category.

The total in column 5 of your Monthly Budget Report, in all cases, must be the same as the total of column 6 of your Record of Local Expenditures.

In Column Number 6, enter the amount expended to date in each category.

In Column Number 7, enter the budget balance available in each category.

In Column Number 8, enter the amount obligated to date. The total of column 8 of your Monthly Budget Report must equal the total of column 5 of your Report and Record of Local Expenditures.

In Column Number 9, enter the total balance available. To arrive at this figure, take the total in Column Number 7, subtract the amount in Column Number 8, and you have the totals for Column Number 9.

Necessary reporting forms for this report will be mailed to you. Your first report will be for the period beginning at approval date of the project to December 31, 1966.

Since you will have mailed this form into the State Education Office at the end of each month, this form will serve as your Project Completion Report.

Bookkeeping machine reports will, in no case, be accepted. They will be returned and all allocation under Title I will be held until corrected.

QUARTERLY BUDGET REPORT
P.L. 89-10 Title I
(Elementary Secondary Education Act)

LOCAL EDUCATIONAL AGENCY TORTILLA FLATS
(School District)

TO BE SUBMITTED BY 10th OF EACH MONTH
FOLLOWING REPORTING QUARTERLY

Submit To: Mr. Weldon Perrin
State Department of Education
Title I, ESEA
State Capitol Building
Santa Fe, New Mexico - 87501

For Month of MAY, 1966

PROJECT NO. 1

EXPENDITURE CLASSIFICATIONS (BY CATEGORY)	1. APPROVED PROJECT BUDGET	2. TRANSFERS TO ACCOUNTS TO DATE	3. TRANSFERS FROM ACCTS. TO DATE	4. PROJECT BUDGET AS ADJUSTED	5. EXPENDED THIS MONTH	6. TOTAL EXPENDED TO DATE	7. BUDGET BALANCE AVAILABLE	8. ENCUMBRANCE TO DATE	9. UNENCUMBERED BALANCE AVAILABLE
100 ADMINISTRATION Salaries 900 Other 1100	5,000	-0-	-0-	5,000	1,000	1,500	3,500	500	3,000
200 INSTRUCTION Salaries 2000 Other 1600	10,000	-0-	-0-	10,000	1,400	2,800	7,200	800	6,400
300 ATTENDANCE SERVICE Salaries Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
400 HEALTH SERVICE Salaries Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
500 PUPIL TRANSPORTATION SERVICE Salaries Other									
600 OPERATION OF PLANT Salaries Other									
700 MAINTENANCE OF PLANT Salaries Other									
800 FIXED CHARGES Other									
900 FOOD SERVICES Salaries Other									
1000 STUDENT BODY ACTIVITIES Salaries Other									
1100 COMMUNITY SERVICE Salaries Other									
1220 MINOR REMODELING Salaries Other									
1230 INITIAL OR ADDITIONAL EQUIPMENT Other 5000	12,000	-0-	-0-	12,000	1,000	4,000	8,000	1,000	7,000
1500 OTHER (Specify) Salaries Other									
TOTAL	27,000	-0-	-0-	27,000	3,400	8,300	18,700	2,300	16,400

SAMPLE

APPROVED: SUPERINTENDENT JAMES DOE DATE JUNE 6, 1966

NOTE - Salaries and Other in first column on left must total to Column 6 plus Column 8.

TRANSFERS FOR TITLE I, ESEA PROJECTS

You may mimeograph Title I, Public Law 89-10, Form Number 3, for requesting transfers under Title I, ESEA.

All inter-project transfers must be approved by the office of Dr. Fitzpatrick and Mr. Wugalter. Five copies must be sent for endorsement. Inter-project transfers should be kept to a minimum.

No funds may be expended without prior approval.

SEE EXHIBIT NUMBER D

Submit 5 copies to:
Mr. Weldon Perrin
Title I, ESEA
State Department of Education
State Capitol Building
Santa Fe, New Mexico

EXHIBIT D

REQUEST FOR TRANSFER WITHIN APPROVED PROJECT

Local Education Agency ____________________ Project No. __________

Total Allocation ________________ Approved to Date ______________

Balance ________________________

Line Items to be Transferred:

FROM Line Item No.	AMOUNT	TO Line Item No.
	$	

Justification of Request for Transfer:

____
____
____
____
____
____

Authorized Representative for Local Education Agency:

Formal Action to approve the above requests was taken by the Board of Education on ____________________.
date

NAME AND TITLE ____

MAILING ADDRESS ____

SIGNATURE ____

DATE ________________

APPROVED BY: ____
Chairman, Title I, ESEA

DATE: ____________________

Title I, P. L. 89-10
Form No. 3

AMENDMENTS FOR TITLE I, ESEA PROJECTS

For your amendments to a project, please use EXHIBIT E attached. This form may be secured by writing to the State Educational Agency.

This form is to be used only when money is to be added to or subtracted from an approved project. For the year 1966-67 it is our feeling that no amendment will be necessary except for an increase of allocation.

This form must be accompanied by a narrative to state:

1. Needs
2. Objectives
3. Activities
4. Effectiveness (as discussed in the original).

RECORDS OF ACCOUNTABILITY AND DOCUMENTATION OF COSTS

The law requires all local educational agencies receiving grants under this Title to keep records relating to claims for Federal Grants. Separate accountability is necessary for each approved project.

The proration of salaries to more than one program is a must for these employees who are not assigned full time to one approved program. Such a proration must be based upon the amount of time such individual actually devotes to the approved program and therefore must be documentated by a before-the-fact statement of the time estimated that each employee will devote to the program and an after-the-fact statement of the actual time such person did devote to the program signed by the responsible official. These documents, must be available at the time of the audit to support claims for part-time personnel in the Title I program.

It is our feeling that formal receiving reports on goods and equipment are not necessary in most cases. If a school does use this method of documentation of receipt of materials and equipment this is fine, but not necessary.

There should at least be a notation on the Invoice, that such materials or equipment were received in good condition and in the quantities indicated on the invoice.

KEEPING OF AN EQUIPMENT INVENTORY

The Act requires that the title to property acquired under this Title shall be in a public agency which will be responsible for administering such property.

Inventories of equipment purchased by local agencies should be maintained on all items according to the MANUAL OF PROCEDURES as published by the Public School Finance Division.

Equipment purchased under an approved project must be identified as such on the inventory.

AUDIT OF LOCAL EDUCATIONAL AGENCIES

Project expenditure records will be audited by an auditor from the State Educational Agency even though your own contracted auditor audits your records according to state audit procedure.

These audits will be reviewed by Federal Auditors at the State Level. Should adequate records of your project transactions be on file at the state level, you probably will not have a federal auditor come to your school.

Public schools are responsible for any or all equipment loaned to the private school or schools in the district.

No disbursements of funds will be made to the local school districts unless all reporting forms are received by the State.

Specific Audit Steps

For audits of local agencies, it is essential that specific audit instructions be developed to verify that

1. Funds disbursed by the State to the local agency were received and properly accounted for
2. Payments reported by the local agency were actually made to the vendors, contractors, and employees and that they conform to applicable laws and regulations, including procurement requirements
3. Refunds, discounts, etc., were properly credited to the specific programs as reductions of the gross expenditures
4. Payments are supported by adequate evidence of the delivery of goods or performance of services
5. Encumbrances or obligations included in the report of expenditures were actually incurred during the fiscal year for which the expenditure was claimed and, upon liquidation, were adjusted properly for any differences
6. The same item is not reported as an expenditure for 2 or more years, e.g., encumbrance in one year and payment in another
7. All expenditures claimed for federally supported projects were made for properly approved projects, are easily identifiable with these projects, and are the individual items adequately described in the approval and the claim for reimbursement
8. State and local agency rules applicable to equipment records and control are followed
9. Prorated expenditures, such as salaries, travel, etc., are divided correctly between two or more accounts, and that the basis of such division is reasonable, equitable, and substantiated
10. The type of funds expended for federally reimbursed projects are stated correctly; that Federal funds from one program are not used for matching purposes under another Federal program, except as specifically authorized; and that the same expenditures are not claimed for matching purposes under more than one Federal program
11. Unexpended or unearned Federal funds advanced or overpaid are returned promptly or otherwise correctly accounted for
12. If the local agency is on a fiscal year different from the Federal fiscal year, the audit report reflects outstanding obligations as of June 30 in sufficient detail to permit identification of subsequent payments with the applicable obligation and comparison with reports submitted by the local agency to the State agency.

CONTRACT FOR CONSULTANT SERVICES

1. This agreement is made by and between ______________________ hereinafter termed Consultant, and the State of New Mexico Department of Education, hereinafter termed the State.

2. The Consultant agrees to perform consultant services to the State which shall include ______________________________
____
____
____

3. The Consultant further agrees to complete and submit any reports requested by the State within ____________________ from the date such reports are requested or at such later date as may be agreed upon by both parties.

4. The State agrees to pay the Consultant for the services indicated above the following fee __________________________
____
____

5. The maximum amount of funds for this contract is __________

6. There is hereby incorporated herein by reference and this contract shall be subject to all applicable provisions of of Public Law 89-10 entitled Elementary and Secondary Education Act of 1965 together with all applicable rules and regulations contained in Federal Register, Volume 30, Number 178, the application of the State of New Mexico submitted pursuant to said statute and all conditions of the grant made pursuant to said application.

This contract shall be in effect for __________________ from the date of execution by the Local Education Agency. This contract may be terminated by either party upon the giving of 30 days written notice.

______________________________ ______________________________
CONSULTANT LOCAL EDUCATION AGENCY

______________________________ ______________________________
SUPERINTENDENT OF LOCAL
EDUCATIONAL AGENCY

STEPS IN REVIEWING AND APPROVING PROPOSED PROJECTS

1. Receive, code projects.
2. Pre-review of application survey for -
    a. Dotting of i's and crossing t's
    b. Determine immediately if good working project - or a weak project
    c. Return if a weak project, local people revise - review memorandum accompanying project pointing out weaknesses - call on Technical Assistants
3. Good working projects - read thoroughly
    a. Analyze and review
    b. Review project with budget
    c. Phone call to make minor changes
4. Assurances
    a. CAP cooperation
    b. Civil Rights
    c. Private schools
5. General Counseling
    a. Academic Specialist
    b. School Building Specialist
    c. Finance Specialists
6. Distribution of Approved Project
    a. U.S. Office of Education
    b. Local Education Agency
    c. School Study Committee
    d. Files - Title I
    e. Fiscal Division - State Education Agency
7. Public Relations
    a. Announcement to Local Education Agencies
    b. Announcement to Newspaper

APPENDIX - K

Interim Audit Instruction C-10

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
HEW AUDIT AGENCY

Interim Audit Instruction C-10 7/1/66 State and Local Audits

AUDIT GUIDE

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE I

The attached audit guide provides the guidelines to be used in the review of Title I, Elementary and Secondary Education Act of 1965, (Public Law 89-10), which authorizes Federal support to local public educational agencies for special educational programs for educationally deprived children in attendance areas where low-income families are concentrated. This audit guide, together with applicable HEW Audit Agency Interim Audit Instruction, establishes policies and procedures for the performance of these audits.

Any proposed additions or deletions to the audit guide which are significant in nature should be discussed with the Regional Auditor who should also discuss with the Washington staff prior to the completion of the audit engagement.

AUDIT GUIDE

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE I

HEW AUDIT AGENCY

1966

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AUDIT GUIDE

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE I

INTRODUCTION

The major thrust of the Elementary and Secondary Education Act of 1965, signed into law by the President on April 11, 1965, lies in Title I. This Title authorizes Federal support to local public educational agencies for special education programs for educationally deprived children in attendance areas where low-income families are concentrated. Its aim is to help broaden and strengthen educatio for disadvantaged children, wherever they may be found - in public schools, in private schools, or out of school. It does not provide general aid to education.

The Congress has made available for fiscal year 1966 the full amounts authorized as determined by the current formulas for Title I for grants to, (1) local educational agencies, (2) State agencies providing free public education for handicapped children, and (3) State educational agencies for the performance of duties under this Title.. Authorizations for fiscal years 1967 and 1968 will be determined by further action of the Congress.

The U. S. Commissioner of Education is responsible not only for the overall conduct of the program at the national level but also for the determination of the maximum amounts to be allocated to eligible districts or counties and to State agencies that operate or support schools for handicapped children. Federal control of any aspect of education at any level, however, is prohibited.

The State educational agency in its formal application to the Commissioner of Education for participation in the Title I program, includes assurances that it will administer the program and submit reports in accordance with the provisions of the law and the regulations. Following approval of the application, the State agency is required to furnish the Office of Education a description of the plans for staffing, organizing, and administering the program.

The local educational agency is responsible for developing and implementing approved projects to fulfill the intent of Title I. It is therefore responsible for (1) identifying the educationally deprived children in areas where there are high concentrations of low-income families, (2) determining their special needs, (3) designing projects to carry out the purposes of the legislation with regard to such children, and (4) submitting applications to the appropriate State educational agency for grants to carry out proposed projects.

GENERAL AUDIT OBJECTIVES

In general, the primary objectives of our review will be an examination of the following:

1. Whether administrative and financial internal controls are adequate to provide accurate and reliable operating and financial reports essential for management evaluation and decisions.
2. Whether the expenditures made are only for the established projects and programs and in accordance with applicable Federal and State regulations and policies.
3. Whether the administrative reviews have been made by the State agency to evaluate the operations of local projects or programs.
4. Whether the State and local educational agencies have properly reported their accountability for grants of Federal funds for the projects or programs to which this guide is applicable.
5. Whether the projects and programs are conducted in an economical and efficient manner and in compliance with the requirements of applicable laws and regulations, and the approved State application.

PRELIMINARY PLANNING

1. Prior to initiating the audit, the following information should be obtained:
    a. State application and budget material.
    b. Financial reports.
    c. Prior period audit working papers.
    d. Correspondence pertinent to the audit.
    e. Information as to administrative review findings which require audit action.
    f. Copies of program guidelines (OE-35079) or other information relative to the program prepared by the Programs Operations Division, Office of Education.
    g. Title 45, Part 116, as amended, of the Code of Federal Regulations (45 CFR 116).

2. The Regional Auditor will coordinate with the appropriate State officials as to when the audit will commence.

3. Upon arrival at the State agency site, the auditor should request copies of all audit reports, survey and administrative reports relative to the program under audit. Such reports should prove valuable to the auditor in determining the nature and, perhaps, the scope of problems that may be encountered.

REPORTING OBJECTIVES

The audit report should be prepared in narrative form. All findings for which corrective action has been taken or promised to be taken, and also those unresolved, should be included in the audit report. However, any findings and recommendations relative to HEW's administration of the program or to its program policies and procedures should be reported to the Washington audit office by separate memorandum without reference thereto in the audit report.

It is strongly suggested that segments of the report be drafted as the related audit work is completed. Experience has shown this procedure helps to complete the report draft within required time limits, and also gives the auditor an opportunity to obtain additional information needed to adequately support findings while at the audit site. In addition, the auditor will be in a better position to discuss his audit findings with State and/or local officials prior to the presentation of audit findings to HEW officials.

PURPOSE AND SCOPE

The purpose of this section is to outline the requirements and policies of Title I, to furnish a guide to these requirements, and to direct the auditor's attention to certain areas of the grantee's operations and procedures which should be analyzed during the audit. This is for guidance only and is not intended to be all inclusive, nor should it be considered as the minimum review desired by the HEW Audit Agency. The auditor is expected to exercise professional judgment in determining the scope of review and the extent to which it should be expanded or curtailed.

Detailed examination of individual receipt and disbursement transactions will be performed only the extent necessary to (1) determine the actual procedure and controls in use, (2) test the adequacy and adherence to the prescribed procedures and controls, and (3) support recommendations intended to correct weaknesses and deficiencies. In making this determination, the auditor should perform only the minimum amount of detailed verification and analysis work necessary to enable him to arrive at a reasonable conclusion as to the accuracy of the reports and accounts.

In examining the transactions selected for review, it is not intended that all the determinations and verifications called for in this program be made uniformly for each of the transactions to be examined. For transactions of relatively minor amount and import, or where we are fully satisfied that adequate procedures and controls exist, a cursory review to note the general nature of the transaction and to satisfy ourselves as to the apparent allowability, should suffice. For the larger items and those of unusual circumstances, a review should be made of all material aspects of the transactions to determine its reasonableness as well as its legality and correctness.

Our audit work will be performed at the State and at selected local educational agencies. The extent of our work at local agencies, however, will be directly related to the number and quality of independent audits which may have been performed as required by the Office of Education Guidelines (OE 35079).

The auditor should make maximum utilization of those local audits which meet our audit criteria and consider them in his selection of local agencies to be reviewed.

AUDIT PROCEDURES

I. Program Administration - Any State desiring to participate in the grant program shall, through its State educational agency, submit to the Commissioner an application for such participation. In its application the State educational agency includes assurances that it will administer the program and submit reports in accordance with the provisions of the law and the regulations. Our objectives are to examine the State's administration of the program to determine that it is being conducted in an effective, efficient, and economical manner to accomplish the purposes intended; and in compliance with the requirements of applicable laws and regulations, and the approved State application. The following procedures should be performed by the auditor.

1. Examine the application submitted by the State agency to determine that it contains the assurances set forth in 45 CFR 116.31, and that the application includes a certificate by the State Attorney General or other appropriate State legal officer as provided by Section 116.32. The effective date of approval by the U.S. Commissioner of Education should be noted by the auditor for future reference.

2. Obtain and review the State's plan for staffing, organizing and administering the program.

3. Review and evaluate the policies and procedures followed by the State agency to assure itself that the programs submitted by local educational agencies meet the requirements of the Act. The State educational agency is authorized to approve projects submitted by a local educational agency, after it has determined that such projects are within the criteria established by the Commissioner of Education and are in compliance with Section 205(a), Public Law 89-10.

4. Determine that a copy of each project application approved by the State agency is forwarded to the Office of Education.

5. Select a representative number of projects which have been approved by the State agency and review the data and documentation submitted by the local educational agency in support of their proposals. Determine if the information submitted is sufficient to enable the State agency to assure itself that the statutory requirements of the Act have been complied with. See "Guidelines, Special Programs for Educationally Deprived Children" ESEA Act of 1965 - Title I, OE 35079, page 21.

6. Determine that no payments were made by the State agency to a local agency if the level of maintenance, as defined in 45 CFR 116.45, was less than the fiscal effort for fiscal year 1964. (See also 116.17 (f))

7. Review the basis used by the State agency to suballocate the basic grant funds, where necessary, to eligible local educational agencies and determine if the Commissioner of Education is promptly advised of such allocations. (See 45 CFR 116.33(b))

8. Determine that the amount of a maximum basic grant during fiscal year 1966 (but not during subsequent years) does not exceed 30 percent of the amount budgeted by the local educational agency for current expenditures. (See 45 CFR 116.45(c) and 116.8)

9. Section 204, Public Law 89-10, provides that each local educational agency which is eligible to receive a basic grant for the fiscal years ending June 30, 1967 and 1968, shall be eligible to receive in addition a special incentive grant. Determine that the special incentive grants allotted to local educational agencies for fiscal years 1967 and 1968 were made in compliance with the above cited section of the Act.

10. Ascertain that claims by the State agency for program administration are comprised only of costs which are directly related to carrying out the program. Such claims shall not exceed one percent of the total amount approved for projects during the fiscal year ended June 30, or $75,000 ($25,000 in the case of Puerto Rico, Wake Island, American Samoa, Virgin Islands, or the Trust Territory of the Pacific Islands), whichever is greater.

11. Determine that the local educational agency obtained approval from the State agency for the utilization of project funds which varied more than 10 percent over or under the total amount approved for the project.

12. Determine that neither the State nor local educational agency has transferred or reallocated Title I Federal funds from one local agency to another under any circumstances. This does not preclude participation in cooperative projects.

II. Financial Administration-The Act and regulations set forth the requirements to be followed by the State and local educational agencies in maintaining financial records for the accountability and reporting of Federal funds received for Title I programs. Our objectives are to ascertain that: the administrative and financial internal controls are adequate to provide accurate and reliable financial reports, expenditures are only made for approved projects and in compliance with applicable Federal and State laws and regulations, and such expenditures are made in an effective, efficient, and economical manner to accomplish the purposes for which intended. To accomplish these objectives the auditor should perform the following:

A. General

1. Review and evaluate the procedures followed in receiving, recording, and disbursing Federal funds with special emphasis placed on the adequacy of internal controls.

2. Determine whether separate fund accounting is maintained for Title I funds, and whether the accounts are maintained in such a manner that unused funds can readily be identified for proper return to the Office of Education.

3. Comment on whether the letter of credit procedure is being used in accordance with Treasury Department Circular No. 1075, dated May 28, 1964 and HEW Administrative Accounting Manual, No. 1-40, dated September 27, 1965.

4. Comment on the timing of transmitting funds by the State agency to the local agency and determine whether the amount transmitted is based on current needs rather than total project costs. The local agency is required to submit a "Quarterly Disbursement and Estimated Requirements of Federal Funds," to the State agency.

5. Review a representative number of financial transactions and determine that:

   a. Funds for State administration costs were not obligated prior to the effective date of approval of its application by the Commissioner, and not later than June 30 of the fiscal year.

   b. Local agency obligations were not incurred prior to the effective date of approval of the State application nor prior to the approval of the local agency project by the State agency, also that obligations incurred in July and August which are charged to the preceding fiscal year are for projects approved during that fiscal year. (See 45 CFR 116.46(a))

   c. The obligations incurred are for properly approved projects and are identifiable with these projects and are allowable under State and local laws.

   d. Obligations were not incurred on fiscal year 1966 funds for projects approved after the cut off dates established by the Commissioner of Education in his letter to the Chief State School Officers, dated April 2, 1966.

   e. The obligations were adjusted to the amount of the actual expenditure at the time of the disbursement.

   f. The same expenditures were not claimed under more than one Federal program and not against another State or local project.

   g. Expenditures of obligations were actually made to bona fide vendors, contractors, and employees and are adequately supported by documentation.

   h. Refunds and discounts were properly credited to the applicable project as reductions of the gross expenditures.

  i. Unliquidated obligations reported by the State or local educational agency are supported by documentary evidence of a binding commitment for the acquisition of goods or property, or for the performance of work.

  j. All obligations are liquidated or cancelled within one year after the close of the fiscal year in which the obligations were incurred, except obligations for construction where the nature of the construction determines the length of the payment period.

6. Determine that the required quarterly fiscal reports are properly prepared and promptly submitted by the State and local agencies.

7. Determine that the financial reports prepared by the State and local agencies properly show the Federal fund accountability and are mathematically accurate.

8. Examine and comment on the procedures followed by the State agency to verify and reconcile the balances reported in the fiscal reports submitted by the local agencies.

9. Determine that the records of the State's principal accounting officer showing Federal grants received, disbursed, and unexpended have been reconciled with the balances in the accounting records in the State educational agency. If such reconciliations have not been performed on a current basis, comment to that effect should be included in the audit report.

10. Obtain and review the annual financial report prepared by the State agency and determine that it properly reports the total obligations incurred during the fiscal year and any adjustments due to liquidation of obligations for prior years for both State administration and for approved projects.

11. Where the State agency advances funds to local agencies, determine whether the amount of expenditures reported by the State for the year includes only the actual disbursements and obligations of the local agencies, and not the total amount of funds advanced.

12. Section 116.53(d) provides that Federal funds under Title I shall not be available to pay all or part of those expenses which the State or local Educational agencies would have incurred even if they were not participating in this grant program. Determine that no Federal funds participate in overhead costs unless

it can be readily substantiated and documented that the overhead costs claimed were the result of additional costs to the State and/or local agencies participating in the Title I program.

B. Salaries and Wages

1. Obtain a copy of the payroll listings for two pay periods. Trace the totals to the accounting records and make a selective review of individual employees to determine that there is no overlapping with other Federal programs.
2. Determine that the school, where the teacher is assigned, is situated in a low-income area as designated by the approved project.
3. Determine that personnel standards were observed by the educational agency in employing personnel to administer and teach Title I projects.
4. Ascertain that the salaries and wages paid to personnel working on Title I projects are comparable to those paid other employees in the organization or in the local community for similar work.
5. Review the salary and wage charges and determine that they are supported by time and attendance records, leave records, individual payroll records, and payroll registers.
6. When employees are occupied less than full-time on Title I projects or activities, determine that the documentation available is adequate to support the allocations of costs as reported. Also ascertain that the total time allocated among the various Federal and State programs does not exceed 100 percent of the employee's time.

C. Travel and Transportation

This includes necessary and appropriate travel and transportation expenses attributable to the Title I program.

1. Determine that expenditures were in accordance with established policy and customary procedures of the agency, that travel was properly authorized, and that travel vouchers were approved by the supervisor or authorized approving officer.
2. Determine that travel costs are not in excess of cost of transportation by common carrier or in the

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absence of suitable transportation by common carrier, not in excess of reasonable rates established by the State.

3. Determine whether any individual amounts expended appear to be excessive.

D. Rental of Space

This item is the cost for rental of space (including the cost of utilities and janitorial services) in privately and publicly owned buildings.

1. Determine that the expenditures for space are necessary, reasonable, and properly related to the efficient administration of the program.

2. Determine that the State or local educational agency will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures.

3. Determine that the amounts paid by the State or local educational agency are not in excess of comparable rental in a particular locality.

4. Determine that expenditures represent a current cost to the State or local educational agency.

5. Determine that in the case of publicly owned buildings, like charges are made to other agencies occupying similar space for similar purposes.

E. Supplies, Materials, Communications, and Rental of Equipment

1. Determine that purchases were made in accordance with State laws, regulations, and the approved project.

2. Review the property control and inventory system and determine if it is adequate.

3. Determine that materials and supplies purchased for Title I projects were not improperly transferred or other wise made available for the use of other agency activities which are not an integral part of the approved Title I project.

4. Determine that appropriate adjustments are made for all materials and supplies left over at the termination of the project.

5. Review the standards followed by agency personnel in determining quantity requirements. Comment on the basis of such determinations.

6. Review and evaluate the policies and procedures established by the agency to carry out their responsibility relative to purchasing, receiving, and accounting functions.

7. Determine that expenditures for postage, telephone, and telegraph pertain to official project business and that adequate controls are maintained over these expenses.

F. Allocation of Administrative Costs

1. Review the agency's cost allocation computations and determine whether or not the types and classes of indirect costs are allowable under this program.

2. Review and evaluate the agency's procedures for allocating joint costs between Title I projects and other federally and non-federally aided programs.

3. Determine that the allocation plan is adequate and properly administered to ensure that no costs claimed for Title I projects are also claimed under other Federal programs.

G. Equipment

The Act requires that the title to property acquired under this Title shall be in a public agency which will be responsible for administering such property. Inventories of equipment purchased by State and local agencies should be maintained on all items costing $100 or more per unit for the useful life of the equipment or until some disposition of the equipment has been made. The inventories should also include all items of equipment temporarily placed on the premises of or in a private school, regardless of their cost.

1. Ascertain that all purchases of essential equipment were made in accordance with prescribed State laws, regulations, policies and procedures.

2. Determine whether the equipment purchased is properly accounted for, identified, and used in the Title I project for which it was obtained. If the project has terminated, determine whether the equipment is being utilized in related projects by the local agency and that like equipment is not unnecessarily purchased under Title I funds.

[illegible]

3. Determine whether or not the educational agency considers the rental of equipment rather than purchase for purposes of economy.

4. Ascertain that the Federal Government has received proper credit for its proportionate share of the value of all equipment which has been sold or transferred prior to the expiration of its useful life.

5. Determine whether or not the educational agency prior to purchasing new equipment, has considered the equipment available from Government "excess" or "surplus" property offices.

6. Ascertain that there is no overlapping of Title I equipment with other Federal aid programs.